



BUSINESS RESOURCES DIVISION

BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF) CATEGORY I: ECONOMIC DEVELOPMENT PROJECTS 2009 APPLICATION GUIDELINES

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TABLE OF CONTENTS

INTRODUCTION	3
STATEMENT OF PURPOSE	3
PROGRAM FUNDING	3
SUMMARY	4
PROGRAM CONTACTS	5
SECTION I DEFINITIONS	5
SECTION II ELIGIBILITY	6
A. ELIGIBLE APPLICANTS	6
B. ELIGIBLE BUSINESSES	6
C. ELIGIBLE USES OF FUNDS	7
D. INELIGIBLE USES OF FUNDS	8
SECTION III PROJECT REQUIREMENTS	9
A. LOCATION	9
B. JOB CREATION	9
C. MATCH	9
SECTION IV PENALTIES	10
SECTION V APPLICATION PROCEDURES	10
SECTION VI APPLICATION REVIEW	18
SECTION VII PROCEDURES TO ACCESS FUNDS	20
A. AWARD LETTER	20
B. CONTRACTS	20
C. DISBURSEMENT OF FUNDS	21
APPENDIX A: APPLICATION FORM – ECONOMIC DEVELOPMENT PROJECTS	24
APPENDIX B: SUB-RECIPIENT AGREEMENT	29
APPENDIX C: MANAGEMENT PLAN	35
APPENDIX D: ASSISTANCE AGREEMENT	45
APPENDIX E: CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT	51
APPENDIX F: SOURCES AND USES OF FUNDS	55
APPENDIX G: CREDIT CHECK RELEASE	57
APPENDIX H: BUDGET FORM	58
APPENDIX I-1: JOB CREATION REPORT	59
APPENDIX I-2: JOB CREATION REPORT – FOR TRAINING	61
APPENDIX J: JOB CREATION REPORT CERTIFICATION	63
APPENDIX K: REQUEST FOR PAYMENT FORM	64

INTRODUCTION

Statement of Purpose

The Big Sky Economic Development Trust Fund (BSTF) program is a state-funded program created by the 2005 Legislature. The program's legislative purpose is to assist in economic development for Montana that will:

- Create good-paying jobs for Montana residents,
- Promote long-term, stable economic growth in Montana,
- Encourage local economic development organizations,
- Create partnerships between the state, local governments, and local economic development organizations that are interested in pursuing these same economic development goals,
- Retain or expand existing businesses,
- Provide a better life for future generations through greater economic growth and prosperity in Montana, and
- Encourage workforce development, including workforce training and job creation, in High-Poverty Counties by providing targeted assistance.

Program Funding

Interest earnings generated from the Big Sky Economic Development Fund are available for financial assistance to local governments and economic development organizations through application to the Department of Commerce (Department). The BSTF program is designed to provide financial assistance in two categories:

Category I: Economic Development Projects 75% of BSTF earnings shall be awarded to local governments in the form of grants and loans for economic development projects that create net new eligible jobs.

Category II: Planning Grants 25% of BSTF earnings shall be awarded to Certified Regional Development Corporations (CRDC's) and other eligible economic development organizations in the form of grants for economic development planning. See *BSTF Category II: Planning Grant Application Guidelines* for more information.

The BSTF program is a very specialized economic development tool with limited resources. The BSTF program should not be considered as a sole source of funding for projects when other state or federal programs could be utilized.

The Montana Department of Commerce does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known. Please provide as much advance notice as possible for requests.

SUMMARY

1. **Eligible Applicants** - Local governments are eligible to apply for BSTF Category I funding. Local governments include a tribal government (any state or federally recognized Indian tribe within the state of Montana), county consolidated government, city, town, or district or local public entity with the authority to spend or receive public funds.
2. **Eligible Projects** - In order to qualify to apply for BSTF funding, projects must:
 - a. **Create net new eligible jobs that pay at least the average county wage, excluding benefits, and**
 - b. **Provide new, unexpended match at the level of 100% match for applicants not in a High-Poverty County or at the level of 50% match for applicants in a High-Poverty County.**
3. **Grant Award Maximums and Match Requirements** -
Local government applicants **not** in a High-Poverty County are eligible to apply for:

\$4,750 for business assistance and up to
\$250 for grant administration for a total of up to \$5,000 for each new eligible job created.
(See Definitions below for job eligibility criteria)

\$1 for \$1 (100%) match is required.

Applicants in a High-Poverty County are eligible to apply for:

\$7,125 for business assistance and up to
\$375 for grant administration for a total of up to \$7,500 for each new eligible job created.

\$1 for \$2 (50%) match is required.
4. **Application Deadline** - Category I Applications will be accepted on an open-cycle basis until all available funds are committed to approved projects.
5. Applications will be reviewed based upon the criteria provided in these guidelines, which explain how local governments can apply for BSTF funding. Project funding ceilings will be determined by the availability of funding and the quality of the proposed project.

Potential applicants are encouraged to read these guidelines and then contact BSTF staff to discuss program requirements, project eligibility, and funding availability.

PROGRAM CONTACTS

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Montana Department of Commerce
301 South Park Avenue, Room 107
PO Box 200505
Helena, MT 59620-0505
Telephone: (406) 841-2792
FAX: (406) 841-2731
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Big Sky Economic Development Trust Fund Staff

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SECTION I DEFINITIONS

Average County Wage – The current average annual, weekly and hourly wage thresholds may be obtained through the BSTF program web site or may be requested from the Department.
<http://businessresources.mt.gov/Includes/BSTF/2008WeeklyWageSheet090108.pdf>

Basic Sector Company –

- A business that generates more than 50% of their total dollar sales from outside Montana;
- More than 50% of their product or services enters into the production of products exported outside of Montana; or
- A business defined as a “value-adding business” by the Montana Board of Investments.

Certified Regional Development Corporation (CRDC) – A private, nonprofit economic development corporation that has been designated by the Department through a competitive process to manage and administer funds and programs for the Department on a regional basis.

Match – New, unexpended funds available at the time of application; investment to be made at the Montana site by the local government and/or the assisted business associated with the project within the contract period (2 years).

New Eligible Jobs –

- A **net new** position that:

- Employs an individual, at a minimum, an average of thirty-five (35) working hours per week on an annual basis,
- The individual's hire date was on or after the BSTF award date, and
- The position pays wages that meet or exceed the average county wage (see below for definition), excluding benefits.
- The term does **not** include positions for replacement, part-time or seasonal employees.

High-Poverty County – A county in the state of Montana in which 14% or more of people of all ages are in poverty as determined by the U. S. Census Bureau estimates for the most current year available.

High-Poverty County Map – A current map of counties that meet the High-Poverty County definition and are eligible to receive BSTF funding at the higher level may be obtained at the BSTF program web site or may be requested from the Department.
<http://businessresources.mt.gov/Includes/BSTF/14PercPoverty07.pdf>

SECTION II ELIGIBILITY

A. **Eligible Applicants** for BSTF Category I: Economic Development funding include any:

1. Incorporated cities or towns,
2. Counties,
3. Consolidated governments,
4. Tribal governments (includes any state or federally recognized Indian tribe within the state of Montana), and
5. Public districts or local public entities with the authority to spend or receive public funds.

Special purpose agencies, such as CRDC's and other eligible economic development organizations, are **not** eligible to apply directly to the Department for Category I funding; however, they may be involved in implementing and administering a project through a sub-recipient agreement, if the eligible applicant agrees to such an arrangement.

As determined by the Department, local governments and sub-recipients must have the management capacity to undertake and satisfactorily complete the proposed project and assure proper management of BSTF awards.

The Department shall not make a loan nor award a grant to any individual, organization, or governmental unit that is currently in default of the conditions of any loan or grant contract previously executed by the Department.

B. **Eligible Businesses** to be assisted by the local government applicant include:

1. A basic sector company (see definitions); or

2. Any other business entities that:

- Are engaged in business activities that will provide a significant positive economic impact to the community, region and/or the state beyond the job creation involved,
- Do not compete locally, regionally and/or within the state with existing businesses that would result in a negative impact on competitors in the community, region and/or the state, and
- Provide a service or function that is essential to the community, region and/or the state of Montana

Eligible businesses must also meet all of the program requirements outlined in these guidelines.

C. Eligible Uses of Funds include, but are not limited to:

Business Assistance

1. Loan – A loan for the purchase of machinery, equipment and/or working capital,
2. Relocation Grant - A grant for the reimbursement of relocation costs incurred in connection with moving a business to Montana,
3. Employee Training Grant - A grant for the reimbursement of the training of new employees. Only for direct costs associated with education or skills-based training for the new employees. All necessary and incidental costs of providing new employee training and education directed to the new eligible jobs are eligible for grant funding. This includes all direct training costs, such as:
 - a) Program promotion,
 - b) Instructor wages, per diem, and travel,
 - c) Curriculum development and training materials,
 - d) Lease of training equipment and training space,
 - e) Miscellaneous direct training costs,
 - f) Administrative costs,
 - g) Assessment and testing,
 - h) In-house or on-the-job training, and
 - i) Subcontracted services with approved training providers.

Eligible costs that are not direct costs attributable to specific new employees (such as instructor costs, curriculum development and administrative costs) must be pro-rated and allocated to each eligible new employee receiving training for which reimbursement is requested. The pro-rated costs then count towards the maximum \$4,750 (or \$7,125 for High-Poverty Counties) training cost per eligible new employee.

Salary or wages paid to employee during training are **not** eligible for BSTF employee training grant funds.

Local Infrastructure Improvements

A BSTF grant to a local government may be used toward costs incurred by the local government as a result of a business' expansion.

A Preliminary Engineering Report (PER) must accompany requests for infrastructure costs. Note: Montana Prevailing Wage Law and Montana Environmental Protection Act (MEPA) requirements may apply. Please contact program staff to discuss prior to applying for this type of BSTF funding.

Grant Administration

Local governments, with Department approval, may utilize a portion of the BSTF grant or loan award for eligible grant administrative expenses. The total project administrative expenses reimbursed with BSTF funds **shall not exceed five (5) percent** of the total BSTF funds awarded per project:

\$250 per new eligible job created **not** in a High-Poverty County or

\$375 per new eligible job created in a High-Poverty County. (*See Definitions for job eligibility criteria*)

Note: CRDC's or other eligible economic development organizations associated with the project are also encouraged to make a separate application for BSTF Category II funding for PER's, PAR's, Business Plans, Feasibility Studies, and other eligible activities associated with the Category I project. (*See BSTF Category II: Planning Grant Application Guidelines for more information*)

A grant for other uses which do not meet the above stated criteria may be eligible at the discretion of the Department. Please contact BSTF staff to discuss.

D. Ineligible Uses of Funds include, but are not limited to:

1. The transfer or relocation of jobs from one part of the state to another part of the state,
2. The reimbursement of employee wages,
3. Due to the high likelihood of local and/or regional competition, business such as hotels, motels and retail operations will generally be considered ineligible for BSTF funding. These types of businesses may be eligible where certain mitigating circumstances exist,

i.e. a grocery store in a small town in a sparsely populated area where there is no other competition.

Please contact BSTF program staff for any questions regarding the eligibility of a proposed business activity prior to submitting an application to the Department.

Recapture of Program Funds - The Department reserves the right to establish criteria for the recapture of program funds upon any event that violates state law, the public purpose of the program, or any of the grant and/or loan conditions. Unless otherwise specified by the Department, all recaptured funds must be returned to the Department.

SECTION III PROJECT REQUIREMENTS

- A. **Location** – The assisted business receiving the BSTF funding must locate or expand at a site in the state of Montana.
- B. **Job Creation** – The assisted business must create “new eligible jobs” (see definitions) in the state of Montana within the contract and assistance agreement period (2 years).
- C. **Match** – (See definitions). Note: An investment made before BSTF funding approval, without the written consent of the Department to incur project costs, will **not** be eligible to satisfy the match requirement. The total new investment must be equal to or greater than:
- \$1 for \$1 (100% match) of BSTF funds received for businesses **not** in a High-Poverty County, or
 - \$1 for \$2 (50% match) of BSTF funds received for businesses in a High-Poverty County.

The following will **not** be considered as match:

- Existing assets (Note: Existing assets that are physically relocated to Montana may be considered),
- In-kind services,
- Refinancing of existing debt,
- Projected operating cash flow,
- Existing equity,
- Existing bank line of credit amounts (Note: Increases in lines of credit contingent upon the receipt of BSTF funding may be considered), or
- Costs incurred prior to the BSTF funding award date.

Note: The current average annual, weekly and hourly county wage thresholds, as well as the current map of counties that meet the High-Poverty County definition, may be obtained through the BSTF program web site, the link in the “Definitions” section of these guidelines, or may be requested from the Department.

SECTION IV PENALTIES

Local governments and the assisted businesses receiving BSTF financial assistance are liable for the full amount of the award that is advanced by the Department if the business:

- A. Fails to create or maintain the number of net new eligible jobs as specified in the executed contract and assistance agreement,
- B. Fails to inject the required amount of private investment into the project as specified in the executed contract and assistance agreement, or
- C. Ceases operations at the Project Site.

The penalty may be payable in one lump sum or in installments, with or without interest, as the Department deems appropriate.

Award withdrawal - The Department reserves the right to withdraw a commitment of any BSTF funds for projects not ready to proceed within six (6) months after the date of tentative grant award.

SECTION V APPLICATION PROCEDURES

Potential applicants are encouraged to contact the Department to discuss their proposed project with BSTF program staff or a Department Regional Development Officer (RDO). Program contact information is available above or to contact an RDO, see http://businessresources.mt.gov/BRD_rdooffices.asp or call the Regional Development Bureau at (406) 841-2730.

Deadline: Economic development project applications will be accepted on an open-cycle basis until all available funds are committed to approved projects.

Applicants must submit two (2) hard copies and one (1) electronic copy of each finalized BSTF application. The hard copies should be 3-hole punched (not spiral bound) and should include a table of contents and reference tabs. The electronic copy should be provided on a CD in either Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. They should be mailed to:

Big Sky Economic Development Trust Fund
Montana Department of Commerce
Attn: Angela Nelson
PO Box 200505
Helena, Montana 59620-0505.

If you are unable to produce the application materials in electronic format, please contact BSTF program staff to discuss other options.

The following is a detailed description of the information that must be submitted as part of the BSTF application. **Appendix A – Category I: Application Form** should be used to provide a summary of and map to the full detailed application.

- A. **Applicant Information** – The name of the local government applying for the BSTF funds; the full name and title of the chief elected official and project contact person(s); the local government's Federal Tax ID Number; the county the local government is located in, as well as all contact information, such as address, phone numbers, fax number, and email addresses.
- B. **Assisted Business Information** – The legal name of the business that is the subject of the job creation project; project location, including address & full legal description; full name, title and contact information for the contact person at the business; business' Federal Employer Identification Number (FEIN); business' Standard Industrial Classification (S.I.C.) or North American Industrial Classification System (NAICS) code; and business project status (start-up, expansion, relocation, etc.).
- C. **Project Summary Information** – Total project cost; amount of BSTF funds requested, total matching funds; type of project/eligible activity (employee training grant, equipment loan, etc.); Senate and House Districts affected by the project; total number of new jobs to be created and total number of new eligible jobs to be created.
- D. **Partner Organization(s) / Sub-recipients** (if applicable) – Economic development organizations may be involved in implementing and administering a project through a sub-recipient agreement, if the eligible applicant agrees to such an arrangement. If a sub-recipient organization is involved in the project, applicant must submit a draft sub-recipient agreement with the application. See Appendix B for a sample. Provide the full name, title, and contact information for the project representative for each of the project's partner organization(s) and/or sub-recipients.
- E. **Brief Project Summary** – Provide a brief summary of the proposal which describes the nature of the proposed activity, the nature of the assisted business, and what the BSTF financial assistance would be used for. Please specify if outside professional services will be procured. Please also provide any relevant historical information on this project or the region it would support. Please include the business' current employment level in Montana and current employment level at the project site, and list benefits and eligibility requirements for benefits provided by the assisted business.
- F. **Impact Statement** - This must include the impact of the project on the state, regional and community economy. Eligible projects must demonstrate a significant positive economic impact to the community, region and/or the state beyond the job creation involved. Also identify if the business associated with the project is competing with any local or regional existing businesses. In addition, include any resulting negative impacts of the project on the local, regional and/or state economy.

- G. **Sub-recipient Agreement** (if applicable) – A local government applicant may engage a local economic development organization to assist in the management of one or more aspects of the proposed BSTF project. If the local government applicant chooses this option, a draft version of the sub-recipient agreement must be submitted for Department approval. Sample form – Appendix B
- H. **Management Plan** – Provide a draft version of the Management Plan for Department approval. Sample form – Appendix C
- I. **Business Assistance Agreement** – Provide a draft version of the assistance agreement for Department approval. Sample form – Appendix D
- J. **Confidentiality and Non-Disclosure Agreement and Affidavit** (optional/if applicable) – Provide a signed original. Please use Department form – Appendix E

CONFIDENTIALITY AGREEMENTS

Once information is submitted to the Department, the information is subject to the public's right to know pursuant to Article II, Section 9 of the Montana Constitution. Written information is subject to the right of citizens to inspect and copy pursuant to §2-6-102, MCA, unless there is an individual privacy interest that clearly exceeds the merits of public disclosure.

Prior to any potentially confidential information being submitted, the company may enter into a confidentiality agreement with the Department and provide an affidavit so that there is a clear understanding of the rights and obligations of the company relative to protection of sensitive information in Montana.

- K. **Business Plan** – A current Business Plan for the business receiving the financial assistance must be submitted as an attachment to the application. The Business Plan must contain sufficient information for the Department to obtain an adequate understanding and perform an adequate analysis of the business to be assisted; including the products or services offered, estimated market potential, management experience of principals, current financial position, and details of the proposed project. *Note:* CRDC's can apply for BSTF Category II funding to assist in the costs of developing a business plan. *See BSTF Category II: Planning Grant Application Guidelines for more information.*

The outline presented below describes the minimum information that must be included in the complete Business Plan:

1. Business Description:

- a) Legal name, address and contact information of the business,
- b) Description of the company or enterprise and an explanation of the products or services offered, and
- c) Statement and supporting documentation concerning the percentage of the business' total dollar sales generated from outside of Montana and the percentage of the

business' product or services that enters into the production of exported products outside of Montana.

2. Management – Provide the names, titles and resumes of each principal to be responsible for the management of the business.
3. Market – Discuss the present or proposed market area and share, with future projections, and provide an explanation of how the information was developed (for example, market surveys). Document any identified potential markets (for example, contracts, letters or other evidence of interest in the products(s) by potential buyers or distributors), especially if sales projections show annual increases exceeding 25%.
4. Sources and Uses of Funds – Complete and submit: 1) the Sources and Uses of Funds Form (please use Department form – Appendix F) as well as the Matching Funds Summary. These must include the source, use, terms and status (on hand, awarded, committed, applied for, etc.) of all funds to be utilized in satisfying the program matching funds requirement. The Matching Funds Summary must include:
 - a) The total dollar amount of the new investment at the project site made by the local government and/or the business must be specified.
 - b) Submit description and documentation detailing how all project costs were verified, specifying how and by whom (land appraisal, engineer or architect prepared estimates, equipment lists and cost schedules, etc.) they were determined, and describe the reasonableness and completeness of the cost estimates (such as the inclusion of Davis-Bacon prevailing wage rates, if applicable).

Note: CRDC's can apply for BSTF Category II funding to assist in the costs of appraisals, Preliminary Engineering Reports (PERs) and Preliminary Architectural Reports (PARs). (See *BSTF Category II: Planning Grant Application Guidelines for more information.*)

- c) Written commitments to make the investments as described must be included from the local government and the assisted business.

- d) Remember the total new investment by the local government and/or the assisted business at the Montana site must be equal to or greater than \$1 for every \$1 (100%) of BSTF funding received for counties not defined as a High-Poverty County or \$1 for every \$2 (50%) for counties that meet the High-Poverty County definition. The maximum total BSTF funding may not exceed \$5,000 per new eligible job for counties not defined as a High-Poverty County or \$7,500 per new eligible job for counties that meet the High-Poverty County definition.

- e) A narrative explanation/justification for the administrative portion of the budget must be attached.

5. Financial Exhibits – The financial information submitted must demonstrate that the business to be assisted is or will be an ongoing viable company that can achieve and maintain the amount of employment projected. The business must be able to show that projected cash flow will be sufficient to cover projected debt service and that a positive net worth can be attained. The projections must include a narrative explanation of how the figures and assumptions were derived with special emphasis on any changes in major assumptions from existing conditions (i.e., changes in cost of goods sold and general administrative expenses as a percentage of sales, or if sales increases exceed 25% annually). Special care should be taken to include increased labor costs related to achieving the hiring goals contained in the hiring and training plan. Note: The financial section of the business plan is required for all projects, including projects that are for public facilities or employee training.

The Business Plan must include the following financial exhibits:

- a) Financial Statements – For an existing business, provide financial statements that include balance sheets, profit and loss statements, and cash flow statements for the 3 most recent years of operation.

Current financial statements compiled or reviewed by an independent certified public accountant, with full disclosure notes, are required for businesses that have been in operation for more than one complete business fiscal year. In addition to the CPA-prepared year-end financial statements, internally prepared interim financial statements will also be accepted. A responsible officer of the business must sign all financial information. Financial statements must also include a current Aging of Accounts Receivable and Payable. There should not be significant gaps (not more than 90 days) between the historical statements and the projected statements. The projections should use the same fiscal year periods as the historical financial statements.

Applications that contain appropriate, updated, accurate financial information can be processed much more quickly than incomplete applications that require Department requests for additional information.

- b) Financial Projections – Provide two years financial projections that include balance sheets, profit and loss statements, and cash flow statements. Earnings projections must include a projected monthly cash flow analysis for at least one year and until the break-even point is projected to be reached by the business. For a business that experiences regular or occasional cyclical variations in cash flow, provide a narrative explanation of the reason(s) for the occurrence of the cycles. Also, explain the effect, if any, on the business's ability to meet its debt obligations identified in the existing and projected debt schedules.
- c) Debt Schedule – Provide descriptions of all existing and projected debts and lenders, annual debt service amounts, and any related loan requirements. Financial statements should include current maturities of long-term debt and adjusted principal balances. All debt sources must be identified independently and not combined into one long-term debt number on the balance sheet. Principal and interest payments for at least three years should be included for all sources.

- d) Working Capital Needs – Provide information on working capital needs and verify through cash flow projections, explaining changes in inventory and receivables.
- e) Requirements for Business Owners with a 20% or Greater Ownership – Personal Financial Statements and tax returns are generally required for all owners with 20% or more ownership in the business to be assisted. The Department also requires personal or corporate income tax returns for all affiliated businesses. Personal guarantees may be required of owners with a 20% or more ownership at the discretion of the Grant Review Committee.
- f) Personal Credit Check Release – The principal owners of the business, as defined above, must provide a release allowing for a personal credit history check by the Department as part of the application review. Please use Department form – Appendix G.
- g) Private Sector Commitments – Applicants must provide firm commitment letters from any private sector lenders or investors involved in the project. Such commitments should be binding, contingent only upon receipt of BSTF financial assistance. All terms and conditions that apply to each funding source must be submitted as part of the application.
- h) Public Sector Commitments – Applicants must provide firm commitment letters from any public sector lenders or investors (e.g. Local area RLF, GTA, CDBG-ED, etc.) involved in the project. All terms and conditions that apply to each funding source must be submitted as part of the application.
- i) Acquisition Narrative – Please describe in detail the nature of any purchase agreements that are a part of the project; include a copy of any buy/sell agreements.

Business Plans that include a loan guarantee from the Small Business Administration (SBA) or from the US Department of Agriculture-Rural Development (USDA-RD) must include the letter of authorization that contains the terms and conditions that apply to the loan. Terms and conditions for proposed debentures must be included.

Letters of commitment from investors, owners and/or others providing assistance must be submitted with the application and must:

- Be on letterhead of the firm and signed by an official of the firm authorized to commit the organization,
- Provide a clear statement of the firm's concept of the project (i.e., location, scope and cost),
- Specify the nature of the commitment (e.g., the amount of private commitment, amount of borrower's commitment, type and size of the project, and number of jobs to be created), and

- State a willingness of the firm to sign a legally binding commitment upon grant award and that the firm has reviewed the grant application and has approved its content. Letters of commitment from private financing institutions must specify the amount and type (for example, interim construction financing) of the loan being provided for the specific activity to be undertaken. The commitment should be binding, contingent only upon receipt of BSTF financial assistance.

The Department may accept a copy of a current loan application to entities such as the Montana Board of Investments to satisfy the conditions in the above section.

The Business Plan should include any other information that may be helpful in documenting the economic viability of the project.

The Department reserves the right to request additional information or accept reasonable variations from the information requirements listed on a case-by-case basis if necessary to make a funding decision.

- L. **Project Information** – The following must be provided for the proposed project for which the applicant is seeking BSTF funding. Attach as many pages as necessary.
1. Detailed Project Description – This must include a legal description of the location of the project site (attach any supporting maps); a list of each of the entities, both public and private, that will be involved in carrying out the project and describe their specific roles (property holder, borrower, funding provider, utility provider, job creator, training provider, etc.); a description of each activity that will need to be undertaken in order to implement the project, the source of funding for that activity, and which entity will be responsible for implementing that activity.
 2. Budget – Provide a budget for the project. Please use Department form – Appendix H.
 3. Hiring and Training Plan – The outline presented below describes the minimum information that must be included in the complete Hiring (and Training, if applicable) Plan:
 - a) **Employment Levels** – This must include a current listing of Montana employment levels, the projected increase in number of employees, and the company's annual payroll, both current and projected at the expansion site and for any other operations within the state of Montana. Employee information must include projections for:
 - The number of net new full time jobs – including estimated hours worked per week,
 - The salary or wage per hour for each employee by year, and
 - The estimate of pre-expansion and post-expansion annual payroll.
 - b) **Job Breakdown** – A breakdown of jobs to be created and retained, including the number and type of jobs specifying for each job:
 - Full-time (average 35 hrs per week annually) or part-time,
 - Projected salary or wage per hour,
 - Job titles and descriptions,
 - Description and monetary value of employee benefits,

- For less than full-time jobs, estimate of the number of hours to be worked each week or the number of months to be worked each year, and
 - HIGHLIGHT or identify separately, which jobs will meet BSTF new eligible job criteria (see definitions).
- c) **Timetable** – Include a timetable for creating the jobs, the total number of jobs, as well as employees whose hourly wage or salary will be greater than or equal to the average county wage, excluding benefits.
- d) **Training Schedule** (applicable if applying for BSTF funds to assist with training costs) – Include a description of training curriculum and resources, as well as a schedule for completion of worker training and costs associated with that training.
- e) **Business Commitment** – Include a written commitment from the assisted business that they will comply with the Hiring Plan.
4. **Essential Services/Functions** – Identify any services or functions that the business associated with the project provides that are essential to the locality, region and/or the state.
5. **Project Timeline** – Provide a clear timeline for the implementation of the project and achieving the desired result(s) (i.e. job creation, private investment, etc.).
- M. **Supporting Documents** – Include and reference all supporting documentation, including maps.
- N. **Compliance with Workers’ Compensation Act** – The local government applicant and the assisted business are required to supply the Department with proof of compliance with the Montana Workers’ Compensation Act at the time of application and if awarded BSTF funding, must provide proof of compliance throughout the contract and assistance agreement time period.
- O. **Certifications for Application** – Each local government, the assisted business and any sub-recipient(s) applying for BSTF financial assistance must agree to comply with all of the requirements set out in these guidelines, in implementing their proposed BSTF project, if approved for funding. The local government, assisted business and any sub-recipient(s) must each have the **“Certification for Application”** (page 5 of Appendix A) signed by an official who is duly authorized to sign the application and make a certification on its behalf. **Note:** Businesses considering BSTF funding should analyze the regulations that will apply to them at the beginning of the application process. Local governments and businesses should carefully review these requirements and consider their potential impact when designing their BSTF project. If you have any questions, please contact BSTF staff to discuss.

Please provide any other background information pertinent to the project or proposed activity that might assist the Department in making an informed decision. Local governments are obliged to disclose any information that could reflect negatively on the project or proposed activity.

The Department reserves the right to request additional information or accept reasonable variations from the information requirements listed on a case-by-case basis if necessary to make a funding decision, especially if the project contains unique items that may require different information than requested above.

SECTION VI APPLICATION REVIEW

To determine the merit of each application and the eligible uses of BSTF funds, the Department Grant Review Committee (Committee) will review all applications from eligible applicants and will make recommendations to the Director of the Department, who will make the final decision concerning funding awards.

Applications that are received and accepted as complete, and have received staff analysis and recommendations, will be submitted to the Committee at the next Committee meeting. Applications will be reviewed by the Committee, and if approved by the Committee and the Director, will be funded.

If funded, a letter of tentative award will be sent to the applicant stating what amount was approved for funding and any conditions that apply to the award. The date of the funding decision by the Committee will be the beginning date of the BSTF contract and assistance agreement period.

Applicants should be aware that in most cases, it may take several months or more after the decision to award the funds has been made, before any funds will actually be disbursed to the assisted business. This delay occurs because several activities must take place before funds can be released. For example, the contract between the local government and the Department must be prepared and signed, the assistance agreement between the local government and the assisted business must be prepared and signed, and all of the details for assuring proper management of the project and expenditure of the program funds must be finalized.

The following criteria may be used to determine the merit of each application:

A. Economic Impact of the project, which may include the following factors:

1. Number of direct new jobs that will be created by the project,
2. Wages of those jobs,
3. Total payroll for the project,
4. Number of induced, short-term, project-related jobs expected to be generated by the project as well as the number of long-term permanent jobs expected to be created indirectly in the economy as a result of the project, and
5. Economic circumstances of the local community, county and region, including the extent to which the project will serve to mitigate unemployment.

B. Creation of quality jobs, which may include the following factors:

1. Wage level and status of the jobs to be created,
2. Quality and value of benefits offered by the business (e.g., child care, health and dental, 401 (k) plans, defined benefit plans, etc.),
3. Extent of the training programs offered by the business, and
4. Sustainability of the jobs in the future.

C. Quality of the project, which may include the following factors:

1. Nature of the industrial classification of the project and of the business undertaking it,
2. Long-term prospects for growth at the project site or sites,
3. Long-term prospects for growth of the business within Montana,
4. Financial stability of the business associated with the project,
5. Total new private investment at the Montana project site of the business associated with the project,
6. Total financial investment in the project by the local government,
7. Project readiness,
8. Project feasibility, and
9. Reasonableness of cost estimates.

Special consideration may be given to a business that:

- A. Locates or expands in rural areas and/or areas that have experienced sudden and severe economic disruptions,
- B. Creates a relatively large number of eligible jobs,
- C. Has agreed to negotiate special hiring arrangements for disadvantaged and/or lower income persons in connection with a project,
- D. Brings an exceptional new technology to the state, and
- E. Is recognized as a national or international leader in its industry.

The above stated criteria are designed to assist the Department in making its decision and only constitute minimum standards. Additional factors may be considered depending on the nature of particular projects and their relative merit compared to competing proposals, and depending on the availability of funding at the time of application.

SECTION VII PROCEDURES TO ACCESS FUNDS

- A. **Award Letter** – The Department, upon the Director's approval of the funding requested, will mail a tentative award letter to the applicant notifying them of the BSTF commitment. Program staff will also issue a letter stating all start up conditions that will apply to the award.
- B. **Contracts** – The appropriate contracts for an award include, but are not limited to: a contract between the Department and the local government, as well as an approved assistance agreement between the local government and the assisted business. These contracts will include the performance criteria necessary for BSTF funds to be expended and released.
1. Local Government Contract – The basic form of the contract between the Department and the local government will be prescribed by the Department and may include the following agreements and terms:
 - a. Comply with the terms of the local government's application.
 - b. Take all steps necessary to ensure and establish to the Department that the required numbers of new eligible jobs are created and the required matching investments are made and that no funds are disbursed by the local government until all necessary performance criteria has been met.
 - c. Reimburse the Department for any funds improperly disbursed.
 - d. Terms under which a local government will be deemed to have met or failed to meet the terms of the contract.
 - e. Terms and procedure by which any previously disbursed funds may be recaptured by the Department under circumstances in which the local government or assisted business has failed to meet its commitments.
 - f. Permit the Department and Legislative Auditors access to all records necessary to evaluate the compliance with Department policies and the program's administrative rules and all agreements executed under them.
 - g. Local government commitment to provide matching funds as required by the program award.
 2. Business Assistance Agreement – The assistance agreement between the local government and the assisted business must be approved by the Department and should include the following:

- a. A commitment to create the agreed upon new eligible jobs and the lengths of time those jobs must be sustained to receive funds or to avoid an obligation to reimburse the Department.
- b. Requirements that the assisted business maintain existing jobs in Montana.
- c. A commitment by the assisted business to make the required matching investments, at the agreed upon Montana location, within the required Contract time period.
- d. An obligation to provide proof of any new jobs created, existing jobs retained, and/or new investment made.
- e. The conditions with which the assisted business must comply to receive the benefits of the BSTF program award made to the local government.
- f. The terms under which an assisted business will be deemed to have met or failed to meet the terms of the agreement.
- g. The terms and procedure by which any previously disbursed funds may be recaptured by the local government or the Department under circumstances in which the assisted business has failed to meet its commitments.
- h. Permit the Department, Legislative Auditors, or the local government access to all records necessary to evaluate the compliance with Department policies and the program's administrative rules and all agreements executed under them.
- i. A certification that the assisted business will not discriminate against any employee or against any person seeking employment based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

C. Disbursement of Funds – Once all start up activities have been complete, the following items must be submitted to the Department in order to request funds:

- The Request for Payment Form (Appendix K);
- Project Progress Report detailing progress towards achieving the hiring objectives and project goals that were described in the application as well as describing any difficulties encountered in working towards these goals;
- Approved documentation verifying eligible costs were incurred;
- Documentation of matching funds expended to date;
- A Job Creation Report (Appendix I-1 or I-2); and
- A Job Creation Report Certification (Appendix J). This attests that the new jobs meet or exceed the BSTF program eligibility requirements.

The Department may request additional documentation, when in the exercise of its judgment such documentation is needed to confirm performance.

Upon receipt of documentation of the creation of new eligible jobs and a corresponding request for funds, the Department will review the documentation and verify the jobs have been created. Complete requests generally require 10-15 business days for the processing and distribution of the payment. When funds are expended by the local government, they must then submit proof of receipt, deposit and proper disbursement of the funds.

APPENDICES

APPENDIX A: APPLICATION FORM – ECONOMIC DEVELOPMENT PROJECTS

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF) CATEGORY I: ECONOMIC DEVELOPMENT

This appendix should be the first item to appear in the application.

*Please reference the Application Guidelines for a complete explanation of required application information. Requirements: **Submit 2 original copies (3 hole punched, including reference tabs and a table of contents, not spiral bound) and 1 electronic copy of the application.***

I. APPLICANT INFORMATION - LOCAL GOVERNMENT	
Name of Local Government Entity	
Federal Tax ID Number	
Chief Elected Official (Full Name & Title)	
Contact Person (Full Name & Title)	
Address	
County	
Phone Number	
Email Address	
Fax Number	

II. ASSISTED BUSINESS INFORMATION	
Legal Name of Business to Receive Assistance	
Address of Project Location	
Full Legal Description of Project Location	
Contact Person (Full Name & Title)	
Address	
Phone Number	
Email Address	
Business NAICS or S.I.C. Code	
Business Federal EIN	
Business Project Status (Startup, Expansion, Relocation, etc.)	

III. PROJECT SUMMARY INFORMATION	
Total Project Cost	
Amount of BSTF Funds Requested	
Total Matching Funds	
Type of Project/Eligible Activity	
Senate and House Districts	
Total Number of New Jobs to be Created	
Total Number of New <u>Eligible</u> Jobs	

IV. PARTNER ORGANIZATION(S) / SUB-RECIPIENTS (IF APPLICABLE)

Economic development organizations may be involved in implementing and administering a project through a sub-recipient agreement, if the eligible applicant agrees to such an arrangement.

If a sub-recipient organization is involved in the project, applicant must submit a draft sub-recipient agreement with the application. See Appendix B for a sample.

Contact Person (Full Name & Title)	
Organization	
Address	
Phone Number	
Email Address	

Contact Person (Full Name & Title)	
Organization	
Address	
Phone Number	
Email Address	

V. BRIEF PROJECT SUMMARY

- Please provide a brief summary of this proposal which describes the nature of the proposed activity, the nature of the assisted business (if applicable) and what the BSTF financial assistance would be used for.*
- Specify if outside professional services will be procured.**
- Provide any relevant historical information on this project or the region it would support.*

Business' Current Employment Level in Montana	
Business' Current Employment Level at the Project Site	
Employee Benefits: <i>Please list benefits and eligibility requirements provided by the assisted business</i>	

VI. PROJECT ECONOMIC IMPACT STATEMENT

Please provide a summary of the impact the project would have on the state, regional and community economy as well as any services or functions that the business provides to the community, region or state.

Please describe any negative impact of the project on the local, regional and/or state economy.

VII. TABLE OF CONTENTS

*Please attach the following information to your application.
See Section V of the Guidelines*

Application Requirement:	Page Number
1. <u>Appendix A</u> : Application Form	_____
2. <u>Appendix B</u> : Draft Sub-recipient Agreement <i>(if applicable)</i>	_____
3. <u>Appendix C</u> : Draft Management Plan	_____
4. <u>Appendix D</u> : Draft Business Assistance Agreement	_____
5. <u>Appendix E</u> : Confidentiality Agreement and Affidavit (optional)	_____
6. Business Plan <i>(see Section V, part K for Business Plan elements)</i>	_____
Business Description	_____
Sales Generated Outside of Montana	_____
Management Resumes	_____
Business Market	_____
<u>Appendix F</u> : Sources and Uses of Funds Form	_____
Matching Funds Summary (Narrative)	_____
Financial Statements – 3 Most Recent Years of Operation	
Balance Sheet	_____
Profit and Loss Statement	_____
Cash Flow Statement	_____
Financial Projections – 2 years	
Projected Balance Sheet	_____
Projected Profit and Loss Statement	_____
Projected Cash Flow	_____
Debt Schedule	_____
Working Capital Needs	_____
Personal Financial Statements and Tax Returns (for owners with 20% or more ownership)	_____
<u>Appendix G</u> : Personal Credit Check Release	_____

Private and Public Sector Commitments for Funding (attach letters of commitment for each source of permanent and interim financing)	_____
Acquisition Narrative – Buy/Sell Agreement <i>(if applicable)</i>	_____
7. Project Information <i>(see Section V, part L for Project Information requirements)</i>	_____
Project Description	_____
<u>Appendix H</u> : Project Budget Form	_____
Hiring and Training Plan	_____
Essential Services / Functions	_____
Project Timeline	_____
8. Supporting Documentation: <i>(Attach and Reference all additional Supporting Documentation)</i>	
Map of Proposed Project Area	_____
Legal Counsel Name, Address, Phone Number	_____
Community Support (attach letters of support from organizations or other businesses in the community)	_____
(Description)	_____
(Description)	_____
(Description)	_____
9. Workers' Compensation - Local Government	_____
10. Workers' Compensation - Assisted Business	_____

VIII. CERTIFICATION BY LOCAL GOVERNMENT AND BUSINESS	
<p>As the responsible authorized agents of Local Government Applicant: _____, Sub-recipient: _____ and Applicant Business: _____, we hereby submit this Big Sky Economic Development Trust Fund Application.</p> <p>The information presented in this application is, to the best of our knowledge, true, complete and accurately represents the proposed project. We understand that additional information and documentation may be required.</p> <p><input type="checkbox"/> The Applicant designates _____ (Name and Phone number) as the authorized contact for any additional Department requests for information regarding this application for BSTF funds.</p> <p>Local Government Applicant: _____ will accept responsibility for management of the project and compliance with Big Sky Economic Development Trust Fund regulations.</p> <p>Applicant Sub-recipient: _____ will accept responsibility for compliance with applicable Big Sky Economic Development Trust Fund regulations as specified in this application.</p> <p>Applicant Business: _____ will accept responsibility for compliance with applicable Big Sky Economic Development Trust Fund regulations as specified in this application.</p> <div style="margin-top: 20px;"> Name (typed): _____ Local Government Title (typed): _____ Chief Elected Official Signature: _____ X Date: _____ </div>	
<div style="margin-top: 20px;"> Name (typed): _____ Sub-recipient (if applicable) Title (typed): _____ Authorized Representative Signature: _____ X Date: _____ </div>	
<div style="margin-top: 20px;"> Name (typed): _____ Applicant Business Title (typed): _____ Authorized Representative Signature: _____ X Date: _____ </div>	

APPENDIX B: SUB-RECIPIENT AGREEMENT

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND CATEGORY I: ECONOMIC DEVELOPMENT PROJECTS

SAMPLE

THIS AGREEMENT is entered into this ____ day of ____, 20____, by (name of city, town or county), herein referred to as the (City/Town/County) and (name of local economic development organization), a nonprofit local economic development corporation herein referred to as the "Sub-recipient."

WITNESSETH THAT:

WHEREAS, (name of city, town or county) is the recipient of a Big Sky Economic Development Trust Fund (BSTF) grant by the Montana Department of Commerce, Business Resources Division herein referred to as "the Department," and

WHEREAS, the purpose of the grant is to (name activities) for the residents of (name of city, town, county or region), and

WHEREAS, the (City/Town/County), desires to sub-grant the BSTF funds to the Sub-recipient and engage the Sub-recipient to (name activities) on the (City/Town/County)'s behalf, and

WHEREAS, the Department has required the (City/Town/County) to enter into a Sub-recipient agreement with the Sub-recipient specifying the terms and conditions of the (City/Town/County)'s delegation of certain BSTF responsibilities to the Sub-recipient, and

WHEREAS, the parties to this Agreement understand that neither of them has in any way, expressly or impliedly, abrogated any of its individual powers, and further agree that this Agreement does not create any new organization or legal entity.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set out in this Agreement, the parties agree as follows:

A. SPECIAL PROVISIONS. The (City/Town/County) agrees, under the terms and conditions of this Agreement, to sub-grant BSTF funds for (name activities) to the Sub-recipient.

B. INDEPENDENT SUB-RECIPIENT. It is understood by the parties hereto that the Sub-recipient is an independent Sub-recipient and that neither its principals nor its employees, if any, are employees of the (City/Town/County) for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to section 39-71-401, MCA, the Sub-recipient has obtained, and will maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principals and employees for the services to be performed hereunder.

C. COMPENSATION. Neither the cost of architectural, engineering, or grant administrative services plus a percentage of that cost method, nor the percentage of construction cost method will serve as the basis for compensating the Sub-recipient for its services provided under this Contract.

Activity Based Compensation:

For the satisfactory completion of the services to be provided under this Contract, the (City/Town/County) will pay the Sub-recipient a sum not to exceed \$_____ as in the manner set forth in the attached Exhibit _____, which by this reference is made a part of this contract. Each specific service the Sub-recipient will provide under this contract, and the maximum amount that the (City/Town/County) will pay the Sub-recipient for each of these services, is set forth in the attached Exhibit _____.

OR

Hourly Rate Compensation:

The amount to be paid will be calculated according to the hourly billing rates for the various personnel as described in Exhibit _____. The Sub-recipient may submit monthly requests for payment, based on actual work performed, which must be accompanied by an itemized invoice describing the services furnished, the number of hours worked to accomplish each item, the amount being billed for each item, a description of any other eligible expenses incurred during the billing period, and the total amount being billed.

D. SCOPE OF SERVICES. The Sub-recipient will perform the following services:
(Here, or in an exhibit to the contract, explicitly and completely list the services and products the grant recipient expects of the Sub-recipient, including the timetable for completion of key tasks.)

It is understood and agreed by the parties that the services of the Sub-recipient do not include any of the following: the disbursement or accounting of funds distributed by the (City/Town/County)'s financial officer, legal advice, fiscal audits or assistance with activities not related to the BSTF project.

1. The Sub-recipient will be responsible for all facets of the BSTF project as described in the (City/Town/County)'s BSTF application.
2. During the period of this Agreement, the Sub-recipient will maintain reasonable records of its performance under this Agreement in a manner consistent with generally accepted accounting principles. The Sub-recipient will allow the (City/Town/County) or their authorized representatives access to these records at anytime during normal business hours. At the request of the (City/Town/County), the Sub-recipient will submit to the (City/Town/County), in the format prescribed by the (City/Town/County), status reports on its performance under this agreement.
3. If the Sub-recipient ceases to exist or an Event of Default occurs, all grant funding on hand and accounts or notes receivable related to this agreement, will revert to the (City/Town/County).

E. DURATION OF THE AGREEMENT. This Agreement will become effective upon authorization by the (City/Town/County Commissioners or Council Members) and the

(name of local economic development organization) Board of Directors and approval by the Department.

This Agreement will terminate if either party fails to meet the conditions of this Agreement or if an Event of Default occurs.

F. ADMINISTRATION.

1. For the purposes of implementing this Agreement, the (City/Town/County) will appoint a local government project liaison that will work with the Sub-recipient. The parties will meet as necessary to provide for the efficient and smooth implementation of this Agreement and the activities contained herein. This Agreement will run concurrently with the Management Plan, which governs the management of the initial BSTF grant, and will follow the Management Plan for issues related to the initial grant.
2. The Sub-recipient will comply with all applicable federal and state statutes and regulations.
3. The BSTF project will be audited on a yearly basis.

G. CONFLICT OF INTEREST. The Sub-recipient covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the BSTF project, which would conflict in any manner or degree with the performance of its services hereunder. The Sub-recipient further covenants that, in performing this Contract, it will employ no person who has any such interest.

H. DISPOSITION OF FUNDS ACQUIRED. Upon the expiration of the Agreement, the Sub-recipient will transfer to the (City/Town/County) any BSTF funds on hand at the time of expiration and any accounts receivable attributable from the use of BSTF funds.

I. DOCUMENTS INCORPORATED BY REFERENCE. The (City/Town/County)'s application to the Department for BSTF funding, dated _____, 20__, and all applicable federal and state statutes and regulations are incorporated into this Contract by this reference and are binding upon the Sub-recipient.

J. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data, and other materials prepared by the Sub-recipient pursuant to this Contract are the property of the (City/Town/County) and the Department which have the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any reuse without written verification or adaptation by the Architect/Engineer for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Architect/Engineer. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the (City/Town/County) and the Department.

K. REPORTS AND INFORMATION. The Sub-recipient will maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by the (City/Town/County) to assure proper accounting for all project funds. These records will be made available for audit purposes to the (City/Town/County) or its authorized representative,

and will be retained for three years after receipt of final payment for the services rendered under this Contract unless permission to destroy them is granted by the (City/Town/County).

L. ACCESS TO RECORDS. It is expressly understood that the Sub-recipient's records relating to this Contract will be available during normal business hours for inspection by the (City/Town/County), the Department, and, when required by law, the Montana Legislative Auditor and Legislative Fiscal Analyst.

M. INDEMNIFICATION. The Sub-recipient waives any and all claims and recourse against the (City/Town/County), including the right of contribution of loss or damage to person or property arising from, growing out of, or in any way connected with or incidental to the Sub-recipient's performance of this Agreement, except claims arising from the concurrent or sole negligence of the (City/Town/County) or its officers, agents or employees. The Sub-recipient will indemnify, hold harmless, and defend the (City/Town/County) against any and all claims, demands, damages, costs, expenses, or liability arising out of the Sub-recipient's performance of this Agreement except for liability arising out of the concurrent or sole negligence of the (City/Town/County) or its officers, agents, or employees.

N. TERMINATION OF AGREEMENT. If any of the following events occur, the (City/Town/County) may, in its sole discretion, declare such event a default under this Agreement:

1. Any representation or warranty made by the Sub-recipient in this Agreement or in any request or certificate or other information furnished to the (City/Town/County) under this Agreement proves to have been incorrect in any material respect; or
2. The Sub-recipient fails in any material respect to carry out its obligations under its proposal to the (City/Town/County) for the assistance provided under this Agreement.

If the Sub-recipient fails to perform any of its duties under this Agreement or if any Event of Default occurs, the (City/Town/County) may declare the Sub-recipient to be in default and thereafter give the Sub-recipient written notice setting forth the action or inaction which constitutes the default and giving the Sub-recipient 45 days in which to correct the default. If the Sub-recipient fails to correct the default within 45 days of receipt of this notice, the (City/Town/County) may notify the Sub-recipient in writing that any amount that is payable under this Agreement is due and payable in full within 45 days and this Agreement is terminated.

It is agreed by the parties that the provisions of this Agreement provide for reasonable and sufficient notice to be given to the Sub-recipient in case of the Sub-recipient's failure to comply with any of its covenants and that this notice is sufficient for the Sub-recipient to rectify its actions or inactions of default.

The waiver by the (City/Town/County) of any default by the Sub-recipient does not constitute a waiver of a continuing breach or a waiver of a subsequent breach. Any agreement contrary to this Agreement is not binding upon either party unless it is in writing and signed by both parties.

O. CONSTRUCTION AND VENUE. This Agreement will be construed under and governed by the laws of the State of Montana. The (City/Town/County) and the Sub-recipient agree that

performance of this Agreement is in the County of _____, State of Montana and that in the event of litigation concerning it, venue is in the District Court of the _____th Judicial District in and for the County of _____, Montana.

P. ELIGIBILITY. The Sub-recipient certifies that the Sub-recipient's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in State of Montana contracts.

This Sub-recipient Agreement has been approved by (City/Town/County) (board of commissioners or council members) and (name of local economic development organization)'s Board of Directors.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed.

(Name of City, Town or County):

(Name of local economic dev org...):

(Name of Chief Elected Official)

(Name of Authorized Signature)

Date

Date

Attest:

Attest:

(ATTACH ANY EXHIBITS HERE)

For Example:

Exhibit "A" – BSTF Grant Contract between the Department of Commerce & the (City/Town/County)

Exhibit "B" – Management Plan for the Project (between the (City/Town/County) and the Sub-recipient, as approved by the Department of Commerce)

Exhibit "C" – Schedule of Fees

APPENDIX C: MANAGEMENT PLAN
MONTANA DEPARTMENT OF COMMERCE
BIG SKY ECONOMIC DEVELOPMENT TRUST FUND
CATEGORY I: ECONOMIC DEVELOPMENT PROJECTS

SAMPLE

Option 1 Local Government Management

A. ADMINISTRATIVE STRUCTURE

On (Date of Award), the (name of local government), herein referred to as the (City/Town/County), was awarded a grant from the Big Sky Economic Development Trust Fund (BSTF) Program. The following persons will have lead responsibility for administering the (City/Town/County)'s (Calendar Year (CY) xxxx) BSTF grant to facilitate an expansion of (name of assisted business) (the Assisted Business).

1. (Name and Title of the Chief Elected Official), as the (City/Town/County)'s chief elected official, will have responsibility for all official contacts with the Montana Department of Commerce (Department). The (Chief Elected Official) and (Council or Commissioners) will have the ultimate authority and responsibility for the (City/Town/County)'s (CY xxxx) implementation of the BSTF grant to facilitate an expansion of (name of assisted business). The (Chief Elected Official) will approve and sign administrative documents and approve all payment requests to the BSTF program. The (Council or Commissioners) will approve all contracts and payment requests. The telephone number for the (Chief Elected Official) and (Council or Commissioners) is (406) (xxx-xxxx).
2. (Name, City/Town/County) Fiscal Officer, will act as Finance Manager for the BSTF grant project and will be responsible for management of and record keeping for the BSTF funds and other funds involved in the financing of the business expansion for the Assisted Business.
3. (Name, City/Town/County) Clerk, will maintain all records for the project.
4. (Name, City/Town/County) Grants Administrator, will be the Project Manager. (He/She) will be the liaison between the Assisted Business and the (Council or Commissioners), (City/Town/County) Attorney, and the Department. (He/she) will make appropriate recommendations and route all contract documents, required administrative documents, and payment requests. On behalf of the (Council or Commissioners), (he/she) will maintain the project files, be responsible for State and programmatic requirements and manage the administration and implementation of the BSTF project. (He/She) will be responsible for assisting the grantee with all aspects of managing the project, preparation of contracts, loan agreements, and monitoring.
5. (Name, City/Town/County) Attorney will review and advise the (Council or Commissioners) regarding any proposed contractual agreements associated with the BSTF project and will provide any other legal guidance as requested. The (City/Town/County) Attorney will review and approve all loans, contracts and agreements and related documents. Telephone: (406) (xxx-xxxx).

6. (Name and Title), (name of assisted business) will serve as the project representative for the Assisted Business.

B. Project Management

1. The Project Manager will be responsible for:
 - a. Developing the contract with the Department and administering all requirements related to effective project start up and implementation.
 - b. Preparation of the assistance agreement between the (City/Town/County) and the Assisted Business.
 - c. Ensuring that the assistance agreement between (name of local government) and the Assisted Business is executed.
 - d. Reviewing all proposed project expenditures or payment requests to ensure their propriety and proper allocation of expenditures to the BSTF project budget.
 - e. Preparing a *Request for Payment Form* for submittal to the Department.
 - f. In cooperation with the (City/Town/County)'s Fiscal Officer, reviewing payment requests to ensure compliance, processing payment requests and preparing payment requests for the BSTF, including the *Request for Payment Form* and the *Project Progress Report* with each payment request and biannually as specified by the Department.
 - g. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to administration of the grant.
 - h. Preparing all required performance reports and closeout documents for submittal to the (City/Town/County) for review and submittal to the BSTF Program.
 - i. Project liaison with the Assisted Business, the community and (Council or Commissioners). Attend (Council or Commission) meetings to provide project status reports and represent the project at any other public meetings, as deemed necessary by the (Council or Commissioners).
 - j. Project monitoring.
 - k. Public Relations, which includes acting as a contact person for persons interested in the project, preparing press releases, and disseminating project information.
2. The (City/Town/County) Attorney will be responsible for:
 - a. Reviewing all proposed contractual agreements for the BSTF program.
 - b. Ensuring that any agreements necessary between the Assisted Business and (name of local government) are properly executed.

C. Financial Management

1. The Finance Manager's responsibilities will be as follows:
 - a. Establishing the BSTF Program account and disbursing BSTF funds from that account based on claims and supporting documents approved by the Project Manager. Since the (City/Town/County) uses a **non-interest bearing** compensative balance for its general disbursements, a separate BSTF account is not necessary. The balance of BSTF funds in the (City/Town/County) account will not exceed \$5,000 for a period of more than three (3) days, and all BSTF funds drawn by the grantee will be expended for eligible costs within 15 days.
 - b. With the assistance of the Project Manager, preparing the *Request for Payment Form* to be submitted to the Department. All payment requests will be signed by a duly authorized representative of the (City/Town/County).
 - c. Entering all project transactions into the (City/Town/County)'s existing accounting system and preparing checks/warrants for approved expenditures.
 - d. With the assistance of the Project Manager, preparing the final financial reports for project closeout.

Original financial documents (claims with attached supporting documents) will be retained in the (City/Town/County) Clerk's office.

Monthly time sheets and daily project logs will be maintained by (City/Town/County) staff to document all time worked on the BSTF project.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 20__.

PROJECT ADMINISTRATOR:

(Name, Title, and Name of Local Development Organization)

Date

(name of local government):

(Name and Title of Elected Official)

Date

(name of local government)

SAMPLE MANAGEMENT PLAN

Option 2 Project Managed by Third-Party Nonprofit

On (Date of Award), the (name of local government), herein referred to as the (City/Town/County), was awarded a grant from the Big Sky Economic Development Trust Fund (BSTF) Program. The (City/Town/County) will enter into a Sub-recipient agreement with (name of local economic development organization) (EDO) for administering the BSTF grant. This Management Plan is written to assure proper management of the BSTF grant, which includes financial management of grant funds, compliance with state and federal requirements, and the timely start-up and completion of project activities.

A. ADMINISTRATIVE STRUCTURE

1. (Name of local government), LOCAL GOVERNMENT GRANTEE

The following persons will have lead responsibility for administering the (City/Town/County)'s (Calendar Year (CY) xxxx) BSTF grant to facilitate an expansion of (name of assisted business) (the Assisted Business).

- a. (Name and Title of the Chief Elected Official), as the (City/Town/County)'s chief elected official, will have responsibility for all official contacts with the Montana Department of Commerce (Department). The (Chief Elected Official) and (Council or Commissioners) will have the ultimate authority and responsibility for the implementation of the (name of local government)'s BSTF grant to facilitate an expansion of (name of assisted business). The (Chief Elected Official) will approve and sign administrative documents and approve all payment requests to the BSTF program. The (Council or Commissioners) will approve all contracts and payment requests. The telephone number for the (Chief Elected Official) and (Council or Commissioners) is (406) (xxx-xxxx).
- b. (Name, City/Town/County) Attorney, will review any proposed contractual agreements associated with the BSTF grant, advise the (Council or Commissioners) regarding the agreements, and provide any other legal guidance as requested. Telephone: (406) (xxx-xxxx).
- c. (Name, City/Town/County) Clerk, will be responsible for maintaining records related to the management of the BSTF grant funds for the (name of local government). (Telephone: (406) (xxx-xxxx)).
- d. (Name, City/Town/County, Position (i.e. County Development Office)), will be the liaison between the EDO, the (Council or Commissioners) and the (City/Town/County) Attorney. (He/She) will make appropriate recommendations and route all contract documents, administrative documents, and payments as necessary. Telephone: (406) (xxx-xxxx).

2. (Name of EDO), LOCAL ECONOMIC DEVELOPMENT ORGANIZATION (EDO)

To provide general technical assistance, coordination of funding sources, assurances of compliance with all applicable state requirements for the BSTF grant program, the (name of local government) has designated the EDO as its Project Administrator. The EDO is a not-for-profit economic development organization located in the (name of local government). The following EDO personnel will be responsible for the project:

- a. (Name), Executive Director, will be responsible for all official contacts with the (name of local government) on behalf of the EDO, keeping the EDO Board of Directors apprised of the project status and entering agreements on behalf of the EDO. Telephone: (406) xxx-xxxx.
- b. (Name), Project Manager, will be responsible for overall coordination of the BSTF grant awarded to the (name of local government). (He/She) will establish and maintain complete and accurate project files and monitor all project activities for compliance with all applicable requirements and will prepare payment requests. Telephone: (406) (xxx-xxxx).
- c. (Name), Fiscal Officer, will be responsible for the fiscal management of the project, in coordination with the Project Manager and in accordance with the EDO's established Fiscal Procedures. (He/She) will assure compliance with all applicable federal, state and local requirements, keep all fiscal records and accounts for the EDO, assure coordination of all funding sources, review all project expenditures from the business, process pay requests, and prepare all final project closeout documents. Telephone: (406) (xxx-xxxx).

3. (Name of assisted business), ASSISTED BUSINESS

(Name and Title) for (name of assisted business) will serve as the project representative for (name of assisted business).

B. PROJECT MANAGEMENT

1. The (Name, City/Town/County) (Position), will:

- a. Work with the EDO and the Department in the development of a BSTF contract between the (City/Town/County) and the Department.
- b. Prepare payment requests including: *Request for Payment Form*, *Project Progress Report* and associated cost documentation (invoices, etc.) to submit to the Department.
- c. Review, approve, and submit the BSTF payment requests, after preparation by EDO and approval by the (Council or Commissioners), to the BSTF Program, Business Resources Division, Montana Department of Commerce, and ensure disbursement of funds to the EDO for administrative expenses.
- d. Review and approve all BSTF closeout documents.

2. As a sub-recipient the EDO, as Project Administrator, is responsible for the following day to day project activities:
- a. Assisting the (name of local government) and the Department in developing the (name of local government) contract with the Department that will address all requirements related to effective project start-up and implementation. This will include preparation of all agreements between the (name of local government) and the EDO.
 - b. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to administration of the grant.
 - c. Reviewing all proposed project expenditures or payment requests from the business to ensure their propriety and proper allocation of expenditures to the BSTF project budget.
 - d. In cooperation with the (name of local government) Project Manager, processing payment requests and preparing payment requests for the Department, including the *Request for Payment Form* and the *Project Progress Report* with each payment request and biannually as specified by the Department.
 - e. Preparing all required performance reports and closeout documents for submittal to the Department and assisting the (name of local government) auditors with the completion of the project's audit requirements.
 - f. Closing the BSTF project in a timely fashion within the period of the contract between the Department and the (name of local government).
 - g. Monitoring the business' compliance with the requirements of the grant assistance agreement including implementation of the project hiring or hiring/training plan.
 - h. Attending (Council or Commissioners) meetings to provide project status reports and representing the BSTF project at any other public meetings as deemed necessary by the (Council or Commissioners).

C. FINANCIAL MANAGEMENT

1. The (name of local government) Clerk will be responsible for:
- a. Establishing a BSTF bank account and transferring BSTF funds from that account to the (name of local government) treasury for disbursements, based on claims and supporting documents approved by the Project Manager and (Council or Commissioners). Since the (City/Town/County) uses a **non-interest bearing** compensative balance for its general disbursements, a separate BSTF account is not necessary. The balance of BSTF funds in the (City/Town/County) account will not exceed \$5,000 for a period of more than three (3) days, and all BSTF funds drawn by the grantee will be transferred to the Assisted Business for eligible costs within 15 days. Approved BSTF Administrative Expenses will be transferred to the EDO's account according to the Compensation Schedule in Exhibit "(X)".

- b. Entering all project transactions into the (City/Town/County)'s existing accounting system and preparing checks/warrants for approved expenditures.
- c. With the assistance of the Project Manager, preparing the *Request for Payment Form* to be submitted to the Department. All payment requests will be signed by a duly authorized representative of the (City/Town/County): (i.e. Mayor, Director of the County Development Office, and/or President of the City Council).
- d. The (i.e. Project Manager, the County Development Director and/or City Clerk) will review all proposed expenditures of BSTF funds and will prepare payment requests, which will be signed by the official(s) cited above. All disbursements will be made in accordance with the (City/Town/County)'s established claim review procedures. Before submitting the claim to the (City/Town/County) Clerk, the Project Manager will attach a certification to each claim stating that the proposed expenditure is an eligible expense of the (City/Town/County)'s BSTF grant and consistent with the project budget.
- e. With the assistance of the Project Manager, preparing the final financial report for project closeout.
- f. Financial record keeping will conform to the recommendations of the Department. The original financial documents (claims with all supporting documents attached) will be retained in the (name of local government)'s offices.
- g. A separate fund for the project will be set up within the general ledger accounts at the EDO. All BSTF activities including revenues **(if applicable)**, administrative expenditures, and payments will be segregated, recorded, and reported in this fund and will be entitled "(name of local government) BSTF Project Fund". The payment requests from the project activity funds will be requested from the (name of local government). The EDO will prepare the payment request and forward it to the (City/Town/County). The (City/Town/County) will review the request in accordance with its normal claim review process, sign the request, and forward it to the Department.
- h. (If applicable) The loan closing date will be scheduled to coincide with receipt of funds in the (name of local government)'s account to prevent interest earnings on cash held by either the (name of local government) or the EDO before ultimate disbursement to (name of assisted business).
- i. **If grant award is to be loaned to the Assisted Business:** Subsequent payment requests will consist of **administrative payments** from the (name of local government) to the EDO.
- j. Administrative payments will consist of reimbursement for actual time and costs incurred at a rate of _____ **per hour** plus documented expenses. (Or as detailed in Exhibit "(X)"). The EDO will prepare the BSTF payment request and attach a copy of an interim expenditure report. The expenditure report is generated from the EDO's automated accounting system and includes a detail for **actual monthly expenses**, project-to-date expenses, a budget for each line item expense, and the budget remaining for each line item. Upon review and approval, the (name of

local government will forward the request to the Department. The (name of local government) will reimburse the EDO upon receipt of funds from the Department.

- k. The BSTF project fund will be audited on a yearly basis in conjunction with the (name of local government)'s audit.

If the EDO ceases to exist or an Event of Default occurs, BSTF Program funds relating to the BSTF grant, including funds on hand and accounts or notes receivable will revert to the (name of local government).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 20__.

PROJECT ADMINISTRATOR:

(Name, Title, and Name of Local Development Organization)

Date

(name of local government):

(Name and Title of Elected Official)

Date

(name of local government)

SAMPLE COMPENSATION LANGUAGE

Presented below are various options the local government can use and/or modify for compensating the project manager or Sub-recipient for implementing and managing the initial BSTF loan(s).

Project Management

I. **Option 1 - ACTIVITY BASED COMPENSATION**

The Sub-recipient may submit payment requests quarterly to the **(City/Town/County)**. **Payment requests must be accompanied by a written narrative report that adequately describes and documents the work performed during the period of the contract relative to the project timeline.** Total payment for the services rendered under this Management Plan and associated Sub-recipient Agreement for project management will not exceed five (5) percent of the total BSTF grant award.

Compensation for project administration services, including project start-up activities, implementation, and on-going monitoring and reporting, will be provided in installments, based on actual work performed. Payment will be based upon the completion of key components, as follows:

<u>ACTIVITY</u>	<u>ESTIMATED DATE</u>	<u>TOTAL</u>
Complete Start-up	Month/Year	\$XX,XXX
Semiannual Monitoring & Reporting	Month/Year to Month/Year	\$XX,XXX
Completion & Approval of Project Closeout Report	Month/Year	\$XX,XXX
Local Government Administration/Audit	Month/Year	\$XX,XXX
GRAND TOTAL GRANT ADMIN.		\$XX,XXX

II. Option 2 – HOURLY RATE COMPENSATION

The Sub-recipient may submit payment requests quarterly to the (City/Town/County). **Payment requests must be accompanied by a written narrative report that adequately describes and documents the work performed during the period of the contract to the project timeline. Payments will consist of reimbursement for actual time and costs incurred.** Total payment for the services rendered under this Management Plan and corresponding Sub-recipient Agreement for project management will not exceed five (5) percent of the total BSTF grant award.

An expenditure report will be generated from the EDO's automated accounting system and will include detail for **actual quarterly expenses**, project-to-date expenses, a budget for each line item expense, and the budget remaining for each line item, as follows:

Line Item	Budgeted	Current Reporting Period	Expenses to Date	Remaining Budget
Personnel Services	XX,XXX	0	0	\$XX,XXX
Office Supplies	X,XXX	0	0	\$X,XXX
Postage/Printing	XXX	0	0	\$ XXX
Telephone	X,XXX	0	0	\$X,XXX
Travel	X,XXX	0	0	\$X,XXX
Other	X,XXX	0	0	\$X,XXX
Total	\$XX,XXX	\$ 0	\$ 0	\$XX,XXX

Budget Narrative: Allows for the start-up activities, implementation, loan processing, and on-going monitoring and reporting.

Personnel Services: Staff costs for salary and benefits.

Office Supplies: Includes all project-related general office supply costs

Postage/Printing: Includes project-related copy and postage costs

Telephone: Includes project-related telephone costs

Travel: Includes project-related travel costs for staff

Other: Project-related legal, insurance, audit, accounting and training costs

APPENDIX D: ASSISTANCE AGREEMENT

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND

SAMPLE

AA-MT-BSTF-1-XX-

(This agreement template should be used for BSTF Category I projects)

A. PARTIES: The parties to this contract (the Contract) are the **(name of local government and address), (the City, Town, or County)**, and the **(name of assisted business and address)**, (the **Assisted Business**), ; Tax identification number: .

B. PURPOSE: The purpose of this Contract is for the Assisted Business to use up to \$ in Big Sky Economic Development Trust Fund (BSTF) grant funds, to be used as follows:

- Up to to assist with .

The Assisted Business, has agreed to create eligible net new positions to be employed at the project site located at (the Project Site) in the **(City/County/Town)**'s jurisdictional area within the Contract time period. In addition, the **(City/County/Town and/or the Assisted Business)** have agreed to a total new investment at the Project Site, which is equal to or greater than **\$1 for every \$(1 or 2, check High-Poverty County status)** of BSTF financial assistance received, within this Contract time period.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, the parties hereto agree as follows:

1. SCOPE AND DUTIES: The **(City/County/Town)** and the Assisted Business shall engage in activities as set forth in the **(City/County/Town)**'s Montana Department of Commerce (Department) BSTF application, including any written modifications resulting from the review of the application by the Department for grant assistance, all of which, by this reference are made a part hereof. The **(City/County/Town)** shall enter into this Assistance Agreement with the Assisted Business that shall be approved in writing by the Department before the release of funds.

The **(City/County/Town)** will only release funds to reimburse eligible and documented costs. Funds can be requested by sending a request for payment, in the format prescribed by the **(City/County/Town)**, signed by a duly authorized representative of the Assisted Business. **Project Progress Reports, in the format prescribed by the (City/County/Town), shall be submitted with each request for funds.**

Unless otherwise specified by the **(City/County/Town)**, the Assisted Business will also submit Project Progress Reports biannually to the **(City/County/Town)** and the Department until the Assisted Business receives Contract closeout approval from the **(City/County/Town)**. The Project Progress Report must be provided on or before and for each year of the

Contract time period and at closeout of the Contract. The Project Progress Reports shall include, but are not limited to, the following information:

- a) Certified employment documentation from the Assisted Business that includes the identification of all employees in Montana, corresponding employee name, number, title, current hourly wage, date of hire, termination date if applicable, hourly wage at time of hire, average working hours per week and the physical location where the employee is principally employed;
- b) Total cost and breakdown for the activities that funds are being requested;
- c) Amount of matching funds expended to date;
- d) Total amount requested and total remaining under the Contract; and
- e) Any other pertinent information related to the grant and progress of the project.

2. COMPENSATION AND CONSIDERATION: The total amount to be reimbursed to the Assisted Business under the Contract shall be up to **\$(4,750 or 7,125, check High-Poverty County status)** per eligible net new position created by the Assisted Business for documented costs with reimbursement not to exceed a total of **\$(total award minus grant administration)** dollars for the entire Contract. An eligible net new position employs an individual, at a minimum, an average of thirty-five (35) working hours per week on an annual basis, that was hired on or after **(date of award)**, and pays wages that meet or exceed **\$(average county wage)** per hour, excluding benefits. The **(City/County/Town)** will not reimburse the Assisted Business for any costs incurred prior to **(date of award)**, nor for any expenses not included in the approved budget or not clearly and accurately supported by the Assisted Business' records. The Assisted Business shall satisfy the matching funds requirements consistent with the purposes expressed in the **(City/County/Town)**'s application during the period of the Contract and shall meet or exceed the **1:(1 or 2 check High-Poverty County status)** required match ratio.

- a) The **(City/County/Town)** will authorize the Assisted Business to draw up to **\$(total award minus grant administration)** against the funding reserved for the Assisted Business by the Department. In drawing against the reserved amount, the Assisted Business shall follow the instructions supplied by the **(City/County/Town)**. Unless otherwise authorized by the **(City/County/Town)**, the Assisted Business may receive grant funds periodically over the Contract period only upon documenting the expenditure of the required matching funds and the creation of the eligible net new positions by the Assisted Business, and after incurring eligible expenses. Upon reasonable request, the Assisted Business shall provide substantiation of its investment in capital in excess of the required **\$(Match amount)** new investment at the project site.
- b) If the **(City/County/Town)** determines that the Assisted Business has failed to satisfactorily carry out the duties and responsibilities under the Contract, the Department may revoke the Assisted Business' authority to draw against the reserved amount described herein until such time as the **(City/County/Town)** and the Assisted Business agree on a plan to remedy the deficiency.
- c) The Assisted Business agrees that if it ceases operations at the Project Site during the Contract period the Assisted Business shall immediately reimburse the entire amount of the grant advanced up to that time to the Department. If the Assisted Business does not create the projected number of net new positions that meet BSTF program eligibility requirements, the Assisted Business agrees that it shall reimburse the

(City/County/Town) a prorated portion of any BSTF funds advanced based on documentation of the actual eligible net new positions created by the Assisted Business.

- d) The **(City/County/Town)** reserves the right to withdraw a commitment for any BSTF funds which remain un-disbursed at Contract closeout or at the end of the Contract period.
- e) The Assisted Business certifies that no request for reimbursement submitted for eligible expenses under this Contract shall duplicate any expense submitted to the Department for reimbursement under any other program administered by the Department.

3. PERIOD OF CONTRACT: The Contract will be in effect for the period commencing **(date of award)** and ending **(date of award plus 2 years)** unless otherwise terminated by law or in compliance with the terms of the Contract.

4. LIAISON: The contact person for the **(City/County/Town)** is **(Contact name, title and phone number)**, or successor, and **(Contact name, title and phone number)** or successor for the Assisted Business.

5. COMPLIANCE WITH WORKERS' COMPENSATION ACT: The Assisted Business is required to supply the **(City/County/Town)** with proof of compliance with the Montana Workers' Compensation Act while performing work for the State of Montana. (Mont. Code Ann. §§ 39-71-120, 39-71-401, and 39-71-405.) Neither the Assisted Business nor its employees are employees of the **(City/County/Town)** or the State. The proof of insurance/exemption must be valid for the entire Contract period and must be received by the **(City/County/Town)** within 5 working days of the Assisted Business' execution of the Contract.

CONTRACTS WILL NOT BE ISSUED TO CONTRACTORS WHO FAIL TO PROVIDE THE REQUIRED DOCUMENTATION WITHIN THE ALLOTTED TIME FRAME.

Coverage may be provided through a private carrier or through the State of Montana, Compensation Insurance Fund (406) 444-6500. An exemption can be requested through the Department of Labor and Industry, Employment Relations Division (406) 444-1446. Corporate officers must provide documentation of their exempt status.

6. FAILURE TO HONOR CONTRACT: If the Assisted Business refuses or fails to deliver in accordance with the Contract terms and conditions, the State Procurement Bureau may, in its discretion, suspend the Assisted Business for a period of time from entering into any contracts with the State of Montana.

7. ACCESS AND RETENTION OF RECORDS: Upon receipt of reasonable advance notice, the Assisted Business agrees to provide the **(City/County/Town)**, Montana Department of Commerce, Legislative Auditor or their authorized agents, access to any records necessary to determine contract compliance. The Assisted Business agrees to create and retain records supporting the BSTF project activities for a period of three years after either the completion date of the Contract or the conclusion of any claim, litigation, or exception relating to the Contract taken by the State of Montana or third party.

8. TERMINATION OF CONTRACT: Unless otherwise stated, the **(City/County/Town)** may, by written notice to the Assisted Business, terminate the Contract in whole or in part at any time the Assisted Business fails to perform the Contract.

9. UNAVAILABILITY OF FUNDING: The **(City/County/Town)** may, at its sole discretion, terminate or reduce the scope of the Contract if available funding is eliminated or reduced for any reason.

10. U.S. FUNDS: All prices and payments must be in U.S. dollars.

11. DEFAULT: Failure on the part of either party to perform the provisions of the Contract constitutes default. Default may result in the pursuit of remedies for breach of contract, including but not limited to damages and specific performance.

12. CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the Contract shall be granted without prior written consent of the Department. Supplies delivered which do not conform to the Contract terms, conditions, and specifications may be rejected and returned at the Assisted Business' expense.

13. VENUE: The Contract is governed by the laws of Montana. The parties agree that any litigation concerning the Contract must be brought in the **(Number)** Judicial District in and for the County of **(name of County)**, State of Montana, and each party shall pay its own costs and attorney fees. (Mont. Code Ann. § 18-1-401.)

14. COMPLIANCE WITH LAWS: The Assisted Business must, in performance of work under the Contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1967, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Assisted Business subjects subcontractors to the same provision. In accordance with Mont. Code Ann. § 49-3-207, the Assisted Business agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Contract.

15. DISABILITY ACCOMMODATIONS: The **(City/County/Town)** does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

16. ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The Assisted Business shall not assign, transfer or subcontract any portion of the Contract without the express written consent of the **(City/County/Town)** and the Montana Department of Commerce. (Mont. Code Ann. § 18-4-141.)

17. MODIFICATION: The Contract may not be enlarged, modified, amended or altered except upon written agreement signed by all parties to the Contract.

18. NOTICE: All notices required under the provisions of the Contract must be in writing and delivered to the parties' liaisons either by regular mail or personal service.

19. SEPARABILITY: A declaration by any court, or any other binding legal source, that any provision of the Contract is illegal and void shall not affect the legality and enforceability of any other provision of the Contract, unless the provisions are mutually dependent.

20. HOLD HARMLESS AND INDEMNIFICATION: The Assisted Business agrees to protect, defend, and save the State of Montana and the **(City/County/Town)**, their elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Assisted Business' employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Assisted Business and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State or **(City/County/Town)**, under the Contract.

21. REGISTRATION WITH SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with Mont. Code Ann. §§ 35-1-1026 and 35-8-1001. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, contact the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

22. TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Assisted Business acknowledges that no State funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Mont. Code Ann. § 18-5-603.) Contact the State of Montana, Department of Administration, Procurement Bureau at (406) 444-2575 for more information concerning non-visual access standards.

23. REFERENCE TO CONTRACT: The Contract number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the Contract.

24. INTEGRATION: The Contract contains the entire agreement between the parties, and no statements, promises, or inducements of any kind made by either party, or the agents of either party, not contained herein are valid or binding.

(Assisted Business Official: Type Name and Title)
(Name of Assisted Business)

(Local Government Official: Typed Name and Title)
(Name of Local Government)

ATTEST:

Legal Review

APPENDIX E: CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT ("Agreement") is made as of the (day) day of (month), (year), by and between (Name of Company) ("Company") and its affiliates and the Montana Department of Commerce ("Department") and its affiliates.

WHEREAS, the Department has requested and/or may request verbal and written information from the Company and its affiliates regarding the Company and certain of its affiliates and Project (including without limitation the proposed (Project Description) to be located in (City, Town, or County), Montana incident to discussions concerning one or more possible loan transactions or grants for the benefit of the Company. The Department will accept a copy of the Business Plan and any supporting documentation submitted by the Company.

NOW, THEREFORE, in consideration of the premises and the disclosure of such information, each Party hereby, intending to be legally bound, agrees to the following provisions:

1. The Company understands and agrees that, pursuant to the Montana Supreme Court's decision in *Great Falls Tribune v. Public Service Commission*, 319 Mont. 38, 82 P.3d 876 (2003), all documents filed with the Department by the Company are presumptively available for access by the public under the "right to know" provision of Article 2, Section 9 of the Montana Constitution. Under the decision, however, the presumption that all documents filed by the Company with the Department are public may be overcome by the proper showing, consistent with the court's decision.
2. If the Company submits documents or information to the Department that it considers confidential and wishes the documents or information to be withheld from public disclosure, it will identify which part of the documents or information it considers confidential at the time the documents or information are submitted. The Company will identify the confidential items through an affidavit that clearly states the facts upon which it believes the documents or information should be withheld from public disclosure. The stated facts must be specific enough so that reviewing authorities can clearly understand the nature and basis of the Company's claims to the right of confidentiality. A statement that all documents or information submitted by the Company are confidential, or other conclusory statements, will be ineffective to prevent public disclosure. The Company understands and agrees that the affidavit it submits is subject to public disclosure.
3. If individual documents or information are not specified as confidential or the affidavit is factually insufficient to support confidentiality, the Department will deem the documents or information submitted as subject to public disclosure.
4. The Department will take reasonable steps to protect documents or information designated as confidential and for which the Company submitted an affidavit clearly stating the factual basis for the claim of confidentiality. Upon receiving a written request from a third party to review any confidential documents or information, the Department will notify the Company of the request in writing. The written notice provided by Department will enclose a copy of the third party request.

The written notice and third party request will be sent by U.S. mail and by fax to the following addresses and fax numbers:

To (Name of Company): (Company Address)
Attention: (Name of Company Contact)
Fax #: (Fax Number)

with a copy to: (Address)
(If required) Attention: (Name of Contact)
Fax #: (Fax Number)

5. It is the responsibility of the Company upon receipt of the written notice from Department to take such action as is necessary to protect the documents or information from disclosure, including obtaining a court order protecting the documents or information from disclosure if necessary. If the Department does not receive an order from a court of competent jurisdiction ordering the Department to maintain confidentiality of the requested information or the Department is not notified of other arrangements made between the Company and the requesting party within 10 days from the date of the written notice by the Department to the Company of the third party request, the information will be disclosed to the requesting party, notwithstanding the affidavit. The Department will not assert the right of confidentiality for the Company in any court, whether sitting at law or in equity.

6. The Company agrees that in the event Department discloses documents or information in accordance with the provisions of this Agreement, the Company will not assert any claim, liability, demand, or cause of action against Department for a violation of any confidentiality interest in any documents or information that it has submitted to Department.

7. The Company agrees it will defend, indemnify, and save harmless the Department against and from any and all claims, liabilities, demands, causes of action, judgments, damages, and losses, including costs and attorneys' fees associated with any action for release of documents or information submitted to Department by the Company, whether such action is brought in the name of the Company or a third party.

8. The Big Sky Economic Development Trust Fund is a state program managed by the Department and is subject to audit and monitoring reviews by state officials. The Department is required by state regulations and laws to provide access to state audit and monitoring officials in order to document compliance with applicable state regulations and laws. In the event and to the extent access to information provided to the Department by the Company related to the Big Sky Economic Development Trust Fund program and otherwise subject to this Agreement is requested by state auditors, the Company agrees that the Department may disclose such information to such auditors, provided that (a) such information is used only by such auditors for the purposes set forth in the previous sentence, and for no other purposes whatsoever; and (b) such information in the possession of or otherwise disclosed to such auditors shall remain subject to the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the date first above written.

(Name of Company)

By: _____

Name: (Name)

Title: (Title)

MONTANA DEPARTMENT OF COMMERCE

By: _____

Name: (Name)

Title: Director

APPROVED BY:

Attorney for the Department

AFFIDAVIT

State of Montana)

: ss.

County of _____)

COMES NOW, (Company Official), being first duly sworn upon his oath, deposes and states as follows:

That he/she is the (Title) of (Company) and offers the following in support of (Company's) claim of confidentiality for information submitted in support of its application to the Montana Department of Commerce for Big Sky Economic Development Trust Fund funds:

1. I am the (Title) of (Company) and offer the following in support of (Company's) claim of confidentiality for information submitted to the Montana Department of Commerce.
2. (Company) claims that the document titled (Business Plan) is confidential and should be withheld from public disclosure as it contains information developed by (Company) concerning its business forecasts and assessments. This information is consistently maintained by (Company) as confidential business information and if disclosed could prejudice (Company's) competitive position and could result in financial losses to (Company).
3. (Company) claims that the documents titled (Financial Statements), including (List Here), are confidential and should be withheld from public disclosure as they contain information developed by (Company) concerning its financial condition, including product revenues and cost of production information and other confidential pricing information. This information is consistently maintained by (Company) as confidential business information and if disclosed could prejudice (Company's) competitive position and could result in financial losses to (Company).

(Company Official) _____

This instrument was acknowledged before me on the ____ day of (Month), 20__ by (Company Official).

(Seal)

Printed Name: _____

Notary Public for the State of _____

Residing at _____

My commission expires: _____

APPENDIX F: SOURCES AND USES OF FUNDS

PART I - SOURCES OF FUNDS STATEMENT								NOTE: TOTAL SOURCES OF FUNDS MUST EQUAL TOTAL USES OF FUNDS!		
<ul style="list-style-type: none"> Please list sources of funding for the project. List both the funding source and the agency that administers the fund, if applicable. Include financing (loans and loan guarantees), grants, donations, and equity. Attach letters of commitment. Identify each source by DESCRIPTION CODE using the codes listed below. Indicate in the COMMITMENT STATUS column whether (P) - Proposed, (R) - Requested, or (A) - Approved (Include commitment/approval documentation) 										
LIST ALL SOURCES OF PROJECT FUNDING										
SOURCE ↓	AMOUNT (PRINCIPAL \$)	DESCRIP- TION CODE	COMMIT- MENT STATUS	RATE (%)	LOAN TERM (YRS)	AMORTI- ZATION PERIOD (YEARS)	ANNUAL DEBT SERVICE	COLLATERAL		
								TYPE	VALUE	POSITION
1.a. BSTF ADMIN										
1.b. BSTF ACTIVITY										
2.										
3.										
4.										
5.										
6.										
DESCRIPTION CODES										
<div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;">1. Conventional Bank Loan</div> <div style="width: 33%;">6. USDA IRP Program</div> <div style="width: 33%;">11. SBA 7A</div> <div style="width: 33%;">2. Equity</div> <div style="width: 33%;">7. MBOI-Purchase of Federal Guaranteed Loan</div> <div style="width: 33%;">12. SBA 504</div> <div style="width: 33%;">3. USDA RD B&I Guarantee Loan</div> <div style="width: 33%;">8. MBOI-Linked Deposit</div> <div style="width: 33%;">13. Growth thru Agriculture</div> <div style="width: 33%;">4. USDA RD Direct Loan Program</div> <div style="width: 33%;">9. MBOI-Business Loan Participation</div> <div style="width: 33%;">14. Local RLF</div> <div style="width: 33%;">5. USDA RD REDL&G Program</div> <div style="width: 33%;">10. EDA</div> <div style="width: 33%;">15. Other (specify)_____</div> </div>										

PART II - USES OF FUNDS		NOTE: TOTAL USES OF FUNDS MUST EQUAL TOTAL SOURCES OF FUNDS!					
SOURCE(S) →	1. Total BSTF	2.	3.	4.	5.	6.	TOTAL PROJECT BUDGET
ADMINISTRATION							
Professional Services							\$
Personnel							\$
Legal							\$
Travel							\$
Supplies							\$
Telephone							\$
Printing/Postage							\$
Other Administration (specify)							\$
TOTAL ADMINISTRATION COSTS	\$	\$	\$	\$	\$	\$	\$
ACTIVITY							
Architecture/Engineering Costs							\$
Construction							\$
Machinery/Equipment							\$
Working Capital							\$
Other (specify)							\$
							\$
TOTAL ACTIVITY COSTS	\$	\$	\$	\$	\$	\$	\$
TOTAL PROJECT COSTS	\$	\$	\$	\$	\$	\$	\$

APPENDIX G: CREDIT CHECK RELEASE

Authorization to Release Credit Information

I/We have applied for a Big Sky Economic Development Trust Fund grant or loan as the business entity with (name of local government) as the lead government agency. As a part of the application process, the State of Montana may choose to verify information contained in the application of owners in the company with a 20% or greater ownership and in documents required in connection with the grant or loan, either before it is closed or as part of its quality control program.

To help in the internal review process, I/we authorize any institution to release credit information concerning myself/ourselves or business to the State of Montana, and disclose factual information that they may request. Such information includes: employment history and income, bank and account balances, credit history, and copies of income tax returns.

Signature(s): _____

Date: _____

Date: _____

Print Name(s): _____

Title(s): _____

Business Name(s): _____

APPENDIX H: BUDGET FORM

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF)

DETAIL USE OF BSTF PROPOSED FUNDS ONLY ON THIS FORM, NOT TOTAL PROJECT COST

SECTION I - APPLICANT INFORMATION		
Contract # MT-BSTF- - -	TAX ID#	DATE
NAME AND ADDRESS OF APPLICANT	ELECTRONIC PAYMENT INFORMATION FINANCIAL INSTITUTION: ROUTING NUMBER: ACCOUNT NUMBER:	
SECTION II: FINANCIAL INFORMATION		
Budget Line Item	Proposed Project Budget	Approved Budget
1. Total Professional Services		
2. Personnel Costs		
3. Legal		
4. Travel		
5. Supplies		
6. Telephone		
7. Printing / Postage		
8. Other (please specify)		
9. TOTAL GRANT BUDGET		
REMARKS		
SECTION III: APPLICANT CERTIFICATION		
CERTIFICATION OF AUTHORIZED REPRESENTATIVE: I certify that the above information and any attachments thereto are complete and accurate to the best of my knowledge and belief. X		
SIGNATURE	NAME AND TITLE	DATE
SECTION IV: DEPARTMENT OF COMMERCE CERTIFICATION		
Expenditures are reasonable & appropriate _____ Financial numbers & signatures are correct _____ Administration does not exceed allowable amount _____	Approved by: Title: Date:	

DETAIL USE OF BSTF PROPOSED FUNDS ONLY ON THIS FORM, NOT TOTAL PROJECT COST

(Excel version of report also available, see program web site)

As of: ***(Insert Award Date)***

[illegible]

NAME OF ASSISTED BUSINESS
MONTANA DEPARTMENT OF COMMERCE
BIG SKY ECONOMIC DEVELOPMENT TRUST FUND
JOB CREATION REPORT: NEW EMPLOYEE SUMMARY
As of: ***(Insert Current Date)***

[illegible]

APPENDIX I-2: JOB CREATION REPORT – FOR TRAINING
(Excel version of report also available, see program web site)

NAME OF ASSISTED BUSINESS
MONTANA DEPARTMENT OF COMMERCE
BIG SKY ECONOMIC DEVELOPMENT TRUST FUND
JOB CREATION REPORT: CURRENT EMPLOYEES SUMMARY
As of: *(Insert Award Date)*

Position Number	Job Title	Employee Name	Employee Number	Date of Hire	Termination Date	Current Hourly Wage

NAME OF ASSISTED BUSINESS
MONTANA DEPARTMENT OF COMMERCE
BIG SKY ECONOMIC DEVELOPMENT TRUST FUND
JOB CREATION REPORT: NEW EMPLOYEE SUMMARY
As of: ***(Insert Current Date)***

[illegible]

APPENDIX J: JOB CREATION REPORT CERTIFICATION

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND

Company:

Contract #: _____

Date: _____

The attached information has been submitted in accordance with the terms of Contract# MT-BSTF-1- - that states:

(Insert Contract Job Creation Language)

CERTIFICATION OF AUTHORIZED REPRESENTATIVE: I certify that the above information and any attachments thereto are complete and accurate to the best of my knowledge and belief.

X _____
Signature by Authorized Human Resources Personnel Date

Name: _____

Title: _____

APPENDIX K: REQUEST FOR PAYMENT FORM

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF)

SECTION I: APPLICANT INFORMATION					
CONTRACT # MT-BSTF- - -		DATE		TOTAL AMT REQUESTED	
NAME & ADDRESS OF GRANTEE		FINANCIAL INSTITUTION: ROUTING NUMBER: ACCOUNT NUMBER:			
SECTION II: FINANCIAL INFORMATION					
Budget Line Item	Approved Budget *INDICATES AMENDMENTS	Current Amount Requested	Drawn	Requested, not Received	Balance
1. Professional Services					
2. Personnel					
3. Legal					
4. Travel					
5. Supplies					
6. Telephone					
7. Printing / Postage					
8. Other (Please Specify)					
9. TOTAL GRANT BUDGET					
SECTION III: APPLICANT CERTIFICATION					
CERTIFICATION OF AUTHORIZED LOCAL GOVERNMENT REPRESENTATIVE: I certify that the above information and any attachments thereto are complete and accurate to the best of my knowledge and belief. X					
SIGNATURE		NAME AND TITLE		DATE	
SECTION IV: DEPARTMENT OF COMMERCE CERTIFICATION					
Expenditures are reasonable and appropriate ____ Financial numbers & signatures are correct ____ Administration does not exceed allowable amount ____			Approved by: Title: Date:		



BUSINESS RESOURCES DIVISION

BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF) CATEGORY II: PLANNING GRANT PROJECTS 2009 APPLICATION GUIDELINES

Anthony J. Preite
Director

Andy Poole
Deputy Director

Gary Morehouse
Assistant Administrator
Business Resources Division

**301 South Park Avenue
P.O. Box 200505
Helena, MT 59620-0505
Phone: (406) 841-2792
Fax: (406) 841-2731**

Website: http://businessresources.mt.gov/BRD_Trustfund.asp

TABLE OF CONTENTS

INTRODUCTION	3
STATEMENT OF PURPOSE	3
PROGRAM FUNDING	3
SUMMARY	4
PROGRAM CONTACTS	5
SECTION I DEFINITIONS	5
SECTION II ELIGIBILITY	5
A. ELIGIBLE APPLICANTS	5
B. INELIGIBLE APPLICANTS	7
C. ELIGIBLE USES OF FUNDS	7
D. INELIGIBLE USES OF FUNDS	8
SECTION III PENALTIES	8
SECTION IV APPLICATION PROCEDURES	8
SECTION V APPLICATION REVIEW	11
SECTION VI PROCEDURES TO ACCESS FUNDS	12
A. AWARD LETTER	12
B. CONTRACTS	12
C. PROCUREMENT OF PROFESSIONAL SERVICES	12
D. DISBURSEMENT OF FUNDS	12
APPENDIX A: APPLICATION FORM – PLANNING GRANTS	15
APPENDIX B: BUDGET FORM	19
APPENDIX C: SUB-RECIPIENT AGREEMENT	20
APPENDIX D: MANAGEMENT PLAN	26
APPENDIX E: REQUEST FOR PAYMENT FORM	32
APPENDIX F: PROFESSIONAL SERVICES CONTRACT	33
APPENDIX G: PRELIMINARY ARCHITECTURAL REPORT OUTLINE	38

INTRODUCTION

Statement of Purpose

The Big Sky Economic Development Trust Fund (BSTF) program is a state-funded program created by the 2005 Legislature. The program's legislative purpose is to assist in economic development for Montana that will:

- Create good-paying jobs for Montana residents,
- Promote long-term, stable economic growth in Montana,
- Encourage local economic development organizations,
- Create partnerships between the state, local governments, and local economic development organizations that are interested in pursuing these same economic development goals,
- Retain or expand existing businesses
- Provide a better life for future generations through greater economic growth and prosperity in Montana, and
- Encourage workforce development, including workforce training and job creation, in High-Poverty Counties by providing targeted assistance.

Program Funding

Interest earnings generated from the Big Sky Economic Development Fund are available for financial assistance to local governments and economic development organizations through application to the Department of Commerce (Department). The BSTF program is designed to provide financial assistance in two categories:

Category I: Economic Development Projects 75% of BSTF earnings shall be awarded to local governments in the form of grants and loans for economic development projects that create net new eligible jobs. See *BSTF Category I: Economic Development Projects Application Guidelines* for more information.

Category II: Planning Grants 25% of BSTF earnings shall be awarded to Certified Regional Development Corporations (CRDC's) and other eligible economic development organizations in the form of grants for economic development planning.

The BSTF program is a very specialized economic development tool with limited resources. The BSTF program should not be considered as a sole source of funding for projects when other state or federal programs could be utilized.

The Montana Department of Commerce does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known. Please provide as much advance notice as possible for requests.

SUMMARY

1. **Eligible Applicants** – Certified Regional Development Corporations (CRDC's) are eligible to apply for BSTF Category II funding. Local Economic Development Organizations (EDO's), which are located in a county that is not part of a CRDC region (ex. Flathead and Richland counties) and which meet program eligibility requirements are also eligible to apply for BSTF Category II funding. EDO's located in counties that are served by CRDC's are not eligible to apply for funding. However, they may be involved in implementing and administering a planning grant project through a sub-recipient agreement, if the CRDC agrees to such an arrangement.
2. **Eligible Uses** – BSTF Category II financial assistance can be used to support the development of Business Plans, Feasibility Studies, Preliminary Architectural Reports, Preliminary Engineering Reports, Economic Impact Studies, Workforce Surveys, and Target Industry Analyses. BSTF Category II financial assistance is not able to be used for Growth Policies, Comprehensive Economic Development Strategies (CEDS), or ongoing operating expenses to provide an economic development service.
3. **Grant Award Amounts and Match Recommendations** – Total grant awards to a CRDC or eligible EDO are typically between \$5,000 and \$26,250 per application (which includes up to 5% for eligible administrative expenses). Recommended match level of at least \$1 for every \$2 (50%) in BSTF assistance that is requested.
4. **Application Deadline** – Category II: Planning Grant applications will be accepted throughout the year on a calendar quarter basis with deadlines of **March 31st**, **June 30th**, **September 30th**, and **December 31st** unless otherwise specified by the Department, until all available funds are committed to approved projects.
5. Applications will be reviewed based upon the criteria provided in these guidelines, which explain how CRDC's and eligible EDO's can apply for BSTF funding.

PROGRAM CONTACTS

Big Sky Economic Development Trust Fund
Montana Department of Commerce
301 South Park Avenue, Room 107
PO Box 200505
Helena, MT 59620-0505
Telephone: (406) 841-2792
FAX: (406) 841-2731
E-mail address: anelson@mt.gov
Montana Relay 1-800-253-4091
TTD: (406) 841-2702

Big Sky Economic Development Trust Fund Staff

Quinn Ness
Section Manager
Big Sky Economic Development Trust Fund
Microbusiness Finance Program
Certified Regional Development Corporations
Telephone: (406) 841-2758
FAX: (406) 841-2731
E-mail address: quness@mt.gov

Angela Nelson
Program Manager
Big Sky Economic Development Trust Fund
Telephone: (406) 841-2792
FAX: (406) 841-2731
E-mail address: anelson@mt.gov

SECTION I DEFINITIONS

Basic Sector Company –

- A business that generates more than 50% of their total dollar sales from outside Montana;
- More than 50% of their product or services enters into the production of products exported outside of Montana; or
- A business defined as a “value-adding business” by the Montana Board of Investments.

Certified Regional Development Corporation (CRDC) – A private, nonprofit economic development corporation that has been designated by the Department through a competitive process to manage and administer funds and programs for the Department on a regional basis.

SECTION II ELIGIBILITY

A. **Eligible Applicants** for BSTF Category II: Planning Grant funding include any:

1. Certified Regional Development Corporations (CRDC's), for projects located within a CRDC region. If a project crosses regions, a separate application would be required from each CRDC and would be reviewed separately by the Grant Review Committee.
2. Local Economic Development Organizations (EDO's), which are located in a county that is **not part of a CRDC region** (ex. Flathead and Richland counties) and meet program

eligibility requirements. To determine the ability of an EDO to effectively manage a BSTF award the following must accompany their application:

- a) Documentation of nonprofit status as provided in Title 35, chapter 2 MCA, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6).
- b) A staffing plan that includes current job titles, job descriptions and qualifications of primary personnel.
- c) A socioeconomic profile of the community (county, incorporated city or town, or Indian Reservation) that the applicant is providing economic development and business assistance services to and which the proposed planning project will benefit.
- d) Evidence of broad-based community support, at the time of submitting the application, that includes written support from the local government (county, incorporated city or town, or tribal government) that the applicant is providing economic development and business assistance services to and which the proposed planning activity will benefit.
- e) A minimum of three references that have received economic development services from the applicant. The references may include state government or universities where the EDO, preferably within the last three years, has successfully completed economic development projects and/or provided business assistance. At a minimum each reference shall include:
 - The company name that received the services,
 - The location where the services were provided,
 - Contact person(s) and information (address, phone number, etc.), and
 - A complete description of the service type and the dates the services were provided.

Note: These references may be contacted to verify an applicant's ability to deliver economic development and business assistance services. The Department reserves the right to use any information or additional references deemed necessary to establish the ability of the applicant to undertake and satisfactorily complete the proposed activity and assure proper management of program funds. Negative references may be grounds for application disqualification.

- f) Evidence of financial stability that includes a copy of the most recent audited or professionally reviewed financial statements of the applicant (including a supplemental schedule or other detailed information to specifically disclose the financial condition and results of operations of the applicant) and a budget for the current fiscal year that includes sources and uses of funds.

Department staff shall review timely submitted proposals and determine whether to recommend eligibility to an EDO. The Department may request additional information deemed necessary by the Department to evaluate the eligibility of the applicant.

The Department shall not award a grant to any individual, organization, or governmental unit that is currently in default of the conditions of any loan or grant contract previously executed by the Department.

- B. Ineligible Applicants** for BSTF Category II: Planning Grant funding – EDO's located in counties that are served by CRDC's are not eligible to apply for funding. However, they may be involved in implementing and administering a planning grant award through a sub-recipient agreement, if the CRDC agrees to such an arrangement.

For CRDC applications that include a sub-recipient arrangement with an EDO, a draft sub-recipient agreement (see Appendix C) and management plan (see Appendix D) must be included with the application. Applications submitted without the draft sub-recipient agreement and management plan will not be accepted. Please contact the Department for any questions regarding sub-recipient agreements.

- C. Eligible Uses of Funds** include supporting CRDC's or eligible EDO's in the development of:

1. Business Plans – Note: See BSTF Category I Application Guidelines, Section V, part K for an outline of items to be included,
2. Feasibility Studies,
3. Preliminary Architectural Reports (PAR) – Note: See Appendix G for an outline of items to be included in a PAR,
4. Preliminary Engineering Reports (PER) – Note: For a PER, grant recipients are required to procure the services of a registered professional engineer to complete preliminary engineering studies. A description of items that should be included in a PER can be requested from the Department or found in the Uniform Application for Montana Public Facility Projects at: <http://dnrc.mt.gov/cardd/ResDevBureau/uniform.asp>,
5. Economic Impact Studies,
6. Workforce Studies, and
7. Target Industry Analyses.

Applications which support a critical activity to move an Economic Development project forward and which directly assist a basic sector company (as defined in the "Definitions" section) are the highest priority of the Department (ex. Completion of a PER).

Other planning activities may be eligible on a case by case basis, if it is determined by the Department that the proposed activities would have a substantial impact on the economy of a community, region and/or the state.

D. Ineligible Uses of Funds include, but are not limited to:

1. Comprehensive Economic Development Strategies (CEDS) that are required by the US Department of Commerce Economic Development Administration,
2. Projects that are eligible to apply for Community Development Block Grant – Community Development (CDBG-CD) planning grant funding, such as:
 - Growth policies,
 - Urban renewal plans,
 - Zoning regulations,
 - Housing project market feasibility studies, and
 - Preparation of Preliminary Architectural Reports for Housing or Public Facilities projectsunless the project demonstrates a significant economic impact to the region. A copy of the CDBG-CD planning grant guidelines may be requested by contacting the Department or found at: http://comdev.mt.gov/CDD_CDBG_PGAG.asp,
3. Ongoing operating expenses to provide an economic development service (ex. Business technical assistance), or
4. Costs incurred prior to the BSTF funding award date.

Please contact BSTF program staff for any questions regarding the eligibility of a proposed planning activity prior to submitting an application to the Department.

Recapture of Program Funds - The Department reserves the right to establish criteria for the recapture of program funds upon any event that violates state law, the public purpose of the program, or any of the grant conditions. Unless otherwise specified by the Department, all recaptured funds must be returned to the Department.

SECTION III PENALTIES

Award withdrawal - The Department reserves the right to withdraw a commitment of any BSTF funds for projects not ready to proceed within six (6) months after the date of tentative grant award.

SECTION IV APPLICATION PROCEDURES

Potential applicants are encouraged to contact the Department to discuss their proposed planning activity with BSTF program staff. BSTF program staff will work closely with applicants to negotiate any changes and resolve issues identified during the preparation of their application.

Deadline: Planning Grant applications will be accepted throughout the year on a calendar quarter basis with deadlines of **March 31st**, **June 30th**, **September 30th**, and **December 31st**

unless otherwise specified by the Department, until all available funds are committed to approved projects.

Applicants must submit two (2) hard copies and one (1) electronic copy of each finalized BSTF application. The hard copies should be 3-hole punched (not spiral bound) and should include a table of contents and reference tabs. The electronic copy should be provided in either Adobe Acrobat (.pdf) or Microsoft Word (.doc) format and e-mailed to anelson@mt.gov or provided on a CD to be mailed with the hard copies. They should be mailed to:

Big Sky Economic Development Trust Fund
Montana Department of Commerce
Attn: Angela Nelson
PO Box 200505
Helena, Montana 59620-0505.

If you are unable to produce the application materials in electronic format, please contact BSTF program staff to discuss other options.

The following is a detailed description of the information that must be submitted as part of the BSTF application. **Appendix A – Category II: Application Form** should be used to provide a summary of and map to the full detailed application.

- A. **Applicant Information** – The name and Federal Tax ID Number of the CRDC or eligible EDO who is applying for the BSTF funds; the full name and title of the person authorized to sign the project contracts; the full name and title of the daily contact person for the project; the county the CRDC or eligible EDO is located in, as well as all contact information, such as address, phone numbers, fax number, and email addresses.
- B. **Project Summary Information** – The name of the project; type of project/eligible activity (Feasibility Study, PER, etc.); project location; total project cost; amount of BSTF funds requested; total matching funds; name of the business being assisted (if applicable); total number of new jobs being created by the project (if applicable); and the Senate and House district numbers where the project is located.

The amount of BSTF funds requested should not typically exceed \$26,250 per application (\$25,000 for project assistance and up to \$1,250 (5%) for eligible administrative expenses). Preferably applicants will request assistance for an amount greater than \$5,000 per application. Matching funds of at least \$1 for every \$2 (50%) in BSTF assistance requested is recommended.

- C. **Partner Organization(s) / Sub-recipients** (if applicable) – EDO's located in counties that are served by CRDC's may be involved in implementing and administering a planning grant award through a sub-recipient agreement if the CRDC agrees to such an arrangement. If a sub-recipient organization is involved in the project, the applicant must submit a draft sub-recipient agreement with the application. Sample form – Appendix C.
- D. **Brief Project Summary** – Provide a brief summary of the proposal which describes the nature of the proposed activity, the nature of the assisted business (if applicable), and what the BSTF financial assistance would be used for. Please specify if any outside professional

services will be procured. Please also provide any relevant historical information on this project or the region it would support.

- E. **Project Objectives and Deliverables** – Provide a detailed statement of the project objectives and a list of the final deliverables to demonstrate the objectives have been met.
- F. **Impact Statement** – This must include the impact of the project on the state, regional and community economy. It must also include any negative impact the project would have on the local, regional and/or state economy.
- G. **Sources and Uses of Funds** – Provide a total project cost breakdown.
List separately any cash and in-kind contributions to the project. Administrative expenses, including personnel and operating expenses, are allowable expenses for which the BSTF funds may be used, **but cannot exceed 5% of the total award unless otherwise specified by the Department.** Example: \$25,000 + 5% (\$1,250) = Total grant request of \$26,250.
- H. **Detailed Project Description** – Provide a detailed description of the planning activity. This must include a list of each of the entities involved in carrying out the project and a description of their specific roles. For each activity that will need to be undertaken in order to complete the project, include a description, the source of funding, and the responsible entity.
- I. **Course of Action** – Provide a detailed course of action for the project.
- J. **Project Timeline** – Provide a clear timeline for implementation of the project and completion of the final deliverable(s) as well as the anticipated month of completion.
- K. **Budget** – Provide a budget for the project. Please use Department form – Appendix B.
- L. **Community Support** – Provide all letters of support from organizations or other businesses in the community.
- M. **Sub-recipient Agreement** (complete if CRDC is proposing project management by EDO) – Provide a draft version of the Sub-recipient agreement for Department approval. Sample form – Appendix C.
- N. **Management Plan** (complete if CRDC is proposing project management by EDO) – Provide a draft version of the Management Plan for Department approval. Sample form – Appendix D.
- O. **Compliance with Workers' Compensation Act** – The CRDC or eligible EDO applicant is required to supply the Department with proof of compliance with the Montana Workers' Compensation Act at the time of application and, if awarded BSTF funding, must provide proof of compliance throughout the Contract time period.
- P. **Supporting Documentation** – Include and reference all supporting documentation, including maps.
- Q. **Certification for Application** – Every applicant must agree to comply with all of the requirements set out in these guidelines in implementing their proposed BSTF project, if

approved for funding. To meet this requirement, a duly authorized official of the applying CRDC or eligible EDO must make this certification on its behalf by signing the “Certification by Application” (page 4 of Appendix A).

Please provide any other background information pertinent to the proposed activity that might assist the Department in making an informed decision. Applicants are obliged to disclose any information that could reflect negatively on the proposed activity.

The Department reserves the right to request additional information if needed during the review period, especially if the proposed activity contains unique items that may require different information than requested above.

SECTION V APPLICATION REVIEW

To determine the merit of each application and the eligible uses of BSTF funds, the Department Grant Review Committee (Committee) will review all applications from eligible applicants and will make recommendations to the Director of the Department, who will make the final decision concerning funding awards.

Applications that are received and accepted as complete, and have received staff analysis and recommendations, will be submitted to the Committee at the next **quarterly** Committee meeting. Applications will be reviewed by the Committee, and if approved by the Committee and the Director, will be funded.

If funded, a letter of tentative award will be sent to the applicant stating what amount was approved for funding and any conditions that apply to the award. The date of the funding decision by the Committee will be the beginning date of the BSTF contract period.

Applicants should be aware that in most cases, it generally takes one (1) month after the decision to award the funds has been made, before any funds will actually be disbursed. This delay occurs because several activities must take place before funds can be released. For example, the contract between the grantee and Department must be prepared and signed and all of the details for assuring proper management of the project and expenditure of the program funds must be finalized.

The following criteria may be used to determine the merit of each application:

- A. The application’s response to an economic development distress or opportunity and potential for the proposed activity to provide for economic development success,
- B. The potential job creation as a result of the activity,
- C. The potential impact of the proposed activity on the economy of a community, region and/or the state,
- D. The amount of state, federal and private matching funds,

- E. The community and regional economic need, and
- F. The potential for the activity to be utilized as a new “best practice” in economic development at the local, regional, state or national level.

The Department may make awards in amounts above or below the stated limits, if it is determined by the Department that the activities that the CRDC or other eligible EDO is proposing could result in substantial impact on the economy of a community, region and/or the state.

SECTION VI PROCEDURES TO ACCESS FUNDS

- A. **Award Letter** – The Department, upon the Director’s approval of the funding requested, will mail a tentative award letter to the applicant notifying them of the BSTF commitment and the terms and conditions of that approval.

It is mandatory that the applicant **not incur costs** or obligate funds, which are intended to be reimbursed with BSTF financial assistance, prior to the grant award date, which is the start of the contract time period. It should be clear that expenses incurred by the grant recipient before the grant award date are incurred at their own risk.

- B. **Contracts** – The appropriate contract for an award will be a contract between the Department and the CRDC or other eligible EDO. The Department will use a basic form for this agreement, although performance criteria for specific agreements will vary.

- C. **Procurement of Professional Services** – If the proposed planning project will require consultant services, the applicant must submit the following to the Department in order for the associated professional service costs to be eligible for reimbursement:

1. A summary of the process used to select the consultant,
2. A list of the qualifications of the chosen consultant, and
3. A draft of the contract for professional services (see Appendix F for a Sample Professional Services Contract). **The CRDC must receive prior written approval from the Department before signing a professional services agreement.**

For Preliminary Engineering Reports (PER) planning grant awards, grant recipients are required to procure the services of a registered professional engineer to complete preliminary engineering studies. A description of items that should be included in a PER can be found in the Uniform Application for Montana Public Facility Projects at: <http://dnrc.mt.gov/cardd/ResDevBureau/uniform.asp> or it is also available from the Department upon request.

- D. **Disbursement of Funds** – A Request for Payment Form (see Appendix E) must be submitted to the Department accompanied by approved documentation verifying eligible

costs incurred by the applicant. The Department may request further documentation in a particular case when, in the exercise of its judgment, such documentation is needed to confirm performance. The basic documentation must include:

1. A Project Progress Report detailing the progress made on the project over the past quarter and anticipated progress over the upcoming quarter,
2. Drafts or updates received from the professional completing the activity, and
3. Documentation of eligible costs incurred on the project (ex. invoices, receipts)

If complete, payment requests generally require 10-15 days for processing and distributing payment. When funds are expended by the CRDC or other eligible EDO, the CRDC or EDO must retain proof or receipt, deposit, and proper disbursement of the funds and provide such information to the Department upon request.

The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over the records of related parties in the project. The Department requires access to such records, as well as the ability to inspect all project work, invoices, materials, and other relevant records at reasonable times and places. The award contract requires the applicant to furnish, upon the Department's request, all data, reports, contracts, documents and other information relevant to the project. The award contract specifies a periodic reporting requirement for the project.

Note: The Department will withhold twenty percent (20%) of the total amount awarded to the Contractor until the Department verifies that all tasks outlined in the SCOPE AND DUTIES and the COMPENSATION AND CONSIDERATION sections of the signed contract have been completed by the Contractor and approved by the Department.

APPENDICES

APPENDIX A: APPLICATION FORM – PLANNING GRANTS

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF) CATEGORY II: PLANNING GRANTS

This appendix should be the first item to appear in the application.

*Please reference the Application Guidelines for a complete explanation of required application information. Requirements: **Submit 2 original copies (3 hole punched, including reference tabs and a table of contents, not spiral bound), and 1 electronic copy of the application.***

I. APPLICANT INFORMATION - CERTIFIED REGIONAL DEVELOPMENT CORPORATION	
Name of CRDC or Eligible EDO	
Federal Tax ID Number	
Authorized Contract Signature (Full Name & Title)	
Daily Contact Person (Name & Title)	
Address	
County	
Phone Number	
Email Address	
Fax Number	

II. PROJECT SUMMARY INFORMATION	
Name of Project	
Eligible Activity (See Guidelines Section II. C)	
Project Location	
Total Project Cost	
Amount of BSTF Funds Requested	
Total Matching Funds	
Name of Assisted Business (If Applicable)	
Total Number of New Jobs to be Created (If Applicable)	
Senate and House Districts	

III. PARTNER ORGANIZATION(S) / SUB-RECIPIENTS (IF APPLICABLE)	
<i>Local economic development organizations may be involved in implementing and administering a project through a sub-recipient agreement, if the eligible applicant agrees to such an arrangement. If a sub-recipient organization is involved in the project, applicant must submit a draft sub-recipient agreement with the application. See Appendix C for a sample.</i>	
Contact Person (Full Name & Title)	
Organization	
Address	
Phone Number	
Email Address	

Contact Person (Full Name & Title)	
Organization	
Address	
Phone Number	
Email Address	

IV. BRIEF PROJECT SUMMARY
<ul style="list-style-type: none"> <i>Please provide a brief summary of this proposal which describes the nature of the proposed activity, the nature of the assisted business (if applicable) and what the BSTF financial assistance would be used for.</i> Specify if outside professional services will be procured. <i>Provide any relevant historical information on this project or the region it would support.</i>

V. PROJECT OBJECTIVES & DELIVERABLES
<i>Please describe, in detail, the objectives of the project. Include a bulleted list detailing what will be delivered to the Department demonstrating objectives were met at the end of the project.</i>

VI. PROJECT ECONOMIC IMPACT STATEMENT
<i>Please provide a summary of the impact the project would have on the state, regional and community economy.</i>
<i>Please describe any negative impact of the project on the local, regional and/or state economy.</i>

VII. PROJECT SOURCES & USES OF FUNDS				
	SOURCE: BSTF	SOURCE: Match	SOURCE:	TOTAL
Grant Administration				
Professional Services				
Other:				
TOTAL PLANNING PROJECT	\$	\$	\$	\$

List cash and in-kind contributions separately.

VIII. TABLE OF CONTENTS

*Please attach the following information to your application.
See Section IV of the Guidelines.*

	Page Number
1. Project Description	_____
2. Course of Action	_____
3. Project Timeline	_____
4. Project Budget Form <i>Please fill out the attached form found in Appendix B</i>	_____
5. Community Support <i>Please attach letters of support from organizations or other businesses in the community</i>	_____
6. Draft Sub-recipient Agreement (if applicable) <i>Sample Form can be found in Appendix C</i>	_____
7. Draft Management Plan (if applicable) <i>Sample Form can be found in Appendix D</i>	_____
8. Workers' Compensation – CRDC/EDO	_____
Supporting Documentation: <i>Attach and Reference all additional supporting documentation.</i>	
9. (Description)	_____
10. (Description)	_____
11. (Description)	_____

IX. CERTIFICATION BY CRDC or ELIGIBLE EDO

As the responsible authorized agent of _____, I hereby submit this Big Sky Economic Development Trust Fund Application.

The information presented in this application is, to the best of my knowledge, true, complete and accurately represents the proposed project. I understand that additional information and documentation may be required.

_____ will accept responsibility for management of the project and compliance with Big Sky Economic Development Trust Fund regulations.

Name

(typed): _____

Title (typed): _____

Authorized Representative

Signature: _____

X

Date: _____

APPENDIX B: BUDGET FORM

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF)

DETAIL USE OF BSTF PROPOSED FUNDS ONLY ON THIS FORM, NOT TOTAL PROJECT COST

SECTION I - APPLICANT INFORMATION		
Contract # MT-BSTF- - -	TAX ID#	DATE
NAME AND ADDRESS OF APPLICANT	ELECTRONIC PAYMENT INFORMATION FINANCIAL INSTITUTION: ROUTING NUMBER: ACCOUNT NUMBER:	
SECTION II: FINANCIAL INFORMATION		
Budget Line Item	Proposed Project Budget	Approved Budget
1. Total Professional Services		
2. Personnel Costs		
3. Legal		
4. Travel		
5. Supplies		
6. Telephone		
7. Printing / Postage		
8. Other (please specify)		
9. TOTAL GRANT BUDGET		
REMARKS		
SECTION III: APPLICANT CERTIFICATION		
CERTIFICATION OF AUTHORIZED REPRESENTATIVE: I certify that the above information and any attachments thereto are complete and accurate to the best of my knowledge and belief. X		
SIGNATURE	NAME AND TITLE	DATE
SECTION IV: DEPARTMENT OF COMMERCE CERTIFICATION		
Expenditures are reasonable & appropriate _____ Financial numbers & signatures are correct _____ Administration does not exceed allowable amount _____	Approved by: Title: Date:	

DETAIL USE OF BSTF PROPOSED FUNDS ONLY ON THIS FORM, NOT TOTAL PROJECT COST

APPENDIX C: SUB-RECIPIENT AGREEMENT
MONTANA DEPARTMENT OF COMMERCE
BIG SKY ECONOMIC DEVELOPMENT TRUST FUND
CATEGORY II: PLANNING GRANTS

SAMPLE

THIS AGREEMENT is entered into this ____ day of _____, 20____, by (name of certified regional development corporation), herein referred to as the “CRDC” and (name of economic development organization), a nonprofit economic development corporation herein referred to as the “Sub-recipient.”

WITNESSETH THAT:

WHEREAS, (name of certified regional development corporation) is the recipient of a Big Sky Economic Development Trust Fund (BSTF) grant by the Montana Department of Commerce, Business Resources Division herein referred to as “the Department,” and

WHEREAS, the purpose of the grant is to (name activities) for the residents of (name of city, town, county, or region), and

WHEREAS, the CRDC, desires to sub-grant the BSTF funds to the Sub-recipient and engage the Sub-recipient to (name activities) on the CRDC’s behalf, and

WHEREAS, the Department has required the CRDC to enter into a Sub-recipient agreement with the Sub-recipient specifying the terms and conditions of the CRDC’s delegation of certain BSTF responsibilities to the Sub-recipient, and

WHEREAS, the parties to this Agreement understand that neither of them has in any way, expressly or impliedly, abrogated any of its individual powers, and further agree that this Agreement does not create any new organization or legal entity.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set out in this Agreement, the parties agree as follows:

A. SPECIAL PROVISIONS. The CRDC agrees, under the terms and conditions of this Agreement, to sub-grant BSTF funds for (name activities) to the Sub-recipient.

B. INDEPENDENT SUB-RECIPIENT. It is understood by the parties hereto that the Sub-recipient is an independent Sub-recipient and that neither its principals nor its employees, if any, are employees of the CRDC for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to section 39-71-401, MCA, the Sub-recipient has obtained, and will maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principals and employees for the services to be performed hereunder.

C. COMPENSATION. Neither the cost of architectural, engineering, or grant administrative services plus a percentage of that cost method, nor the percentage of construction cost method

will serve as the basis for compensating the Sub-recipient for its services provided under this Contract.

Activity Based Compensation:

For the satisfactory completion of the services to be provided under this Contract, the CRDC will pay the Sub-recipient a sum not to exceed \$_____ as in the manner set forth in the attached Exhibit _____, which by this reference is made a part of this contract. Each specific service the Sub-recipient will provide under this contract, and the maximum amount that the CRDC will pay the Sub-recipient for each of these services, is set forth in the attached Exhibit _____.

OR

Hourly Rate Compensation:

The amount to be paid will be calculated according to the hourly billing rates for the various personnel as described in Exhibit _____. The Sub-recipient may submit monthly requests for payment, based on actual work performed, which must be accompanied by an itemized invoice describing the services furnished, the number of hours worked to accomplish each item, the amount being billed for each item, a description of any other eligible expenses incurred during the billing period, and the total amount being billed.

D. SCOPE OF SERVICES. The Sub-recipient will perform the following services:
(Here, or in an exhibit to the contract, explicitly and completely list the services and products the grant recipient expects of the Sub-recipient, including the timetable for completion of key tasks.)

It is understood and agreed by the parties that the services of the Sub-recipient do not include any of the following: the disbursement or accounting of funds distributed by the CRDC's financial officer, legal advice, fiscal audits or assistance with activities not related to the BSTF project.

1. During the period of this Agreement, the Sub-recipient will maintain reasonable records of its performance under this Agreement in a manner consistent with generally accepted accounting principles. The Sub-recipient will allow the CRDC or their authorized representatives, access to these records at anytime during normal business hours. At the request of the CRDC, the Sub-recipient will submit to the CRDC, in the format prescribed by the CRDC, status reports on its performance under this agreement.

2. If the Sub-recipient ceases to exist or an Event of Default occurs, all grant funding on hand and accounts or notes receivable related to this agreement, will revert to the CRDC.

E. DURATION OF THE AGREEMENT. This Agreement will become effective upon authorization by the (name of certified regional development corporation) Board of Directors and the (name of economic development organization)'s Board of Directors and approval by the Department.

This Agreement will terminate if either party fails to meet the conditions of this Agreement or if an Event of Default occurs.

F. ADMINISTRATION. For the purposes of implementing this Agreement, the CRDC will appoint a project liaison that will work with the Sub-recipient. The parties will meet as necessary

to provide for the efficient and smooth implementation of this Agreement and the activities contained herein. This Agreement will run concurrently with the Management Plan, which governs the management of the initial BSTF grant, and will follow the Management Plan for issues related to the initial grant.

G. CONFLICT OF INTEREST. The Sub-recipient covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the BSTF project, which would conflict in any manner or degree with the performance of its services hereunder. The Sub-recipient further covenants that, in performing this Contract, it will employ no person who has any such interest.

H. DISPOSITION OF FUNDS ACQUIRED. Upon the expiration of the Agreement, the Sub-recipient will transfer to the CRDC any BSTF funds on hand at the time of expiration and any accounts receivable attributable from the use of BSTF funds.

I. DOCUMENTS INCORPORATED BY REFERENCE. The CRDC's application to the Department for BSTF funding, dated _____, 20____, and all applicable federal and state statutes and regulations are incorporated into this Contract by this reference and are binding upon the Sub-recipient.

J. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data, and other materials prepared by the Sub-recipient pursuant to this Contract are the property of the CRDC and the Department which have the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any reuse without written verification or adaptation by the Architect/Engineer for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Architect/Engineer. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the CRDC and the Department.

K. REPORTS AND INFORMATION. The Sub-recipient will maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by the CRDC to assure proper accounting for all project funds. These records will be made available for audit purposes to the CRDC or its authorized representative, and will be retained for three years after receipt of final payment for the services rendered under this Contract unless permission to destroy them is granted by the CRDC.

L. ACCESS TO RECORDS. It is expressly understood that the Sub-recipient's records relating to this Contract will be available during normal business hours for inspection by the CRDC, the Department, and, when required by law, the Montana Legislative Auditor and Legislative Fiscal Analyst.

M. INDEMNIFICATION. The Sub-recipient waives any and all claims and recourse against the CRDC, including the right of contribution of loss or damage to person or property arising from, growing out of, or in any way connected with or incidental to the Sub-recipient's performance of this Agreement, except claims arising from the concurrent or sole negligence of the CRDC or its officers, agents or employees. The Sub-recipient will indemnify, hold harmless, and defend the CRDC against any and all claims, demands, damages, costs, expenses, or liability arising out of the Sub-recipient's performance of this Agreement except for liability

arising out of the concurrent or sole negligence of the CRDC or its officers, agents, or employees.

N. TERMINATION OF AGREEMENT. If any of the following events occur, the CRDC may, in its sole discretion, declare such event a default under this Agreement:

1. Any representation or warranty made by the Sub-recipient in this Agreement or in any request or certificate or other information furnished to the CRDC under this Agreement proves to have been incorrect in any material respect; or
2. The Sub-recipient fails in any material respect to carry out its obligations under its proposal to the CRDC for the assistance provided under this Agreement.

If the Sub-recipient fails to perform any of its duties under this Agreement or if any Event of Default occurs, the CRDC may declare the Sub-recipient to be in default and thereafter give the Sub-recipient written notice setting forth the action or inaction which constitutes the default and giving the Sub-recipient 45 days in which to correct the default. If the Sub-recipient fails to correct the default within 45 days of receipt of this notice, the CRDC may notify the Sub-recipient in writing that any amount that is payable under this Agreement is due and payable in full within 45 days and this Agreement is terminated.

It is agreed by the parties that the provisions of this Agreement provide for reasonable and sufficient notice to be given to the Sub-recipient in case of the Sub-recipient's failure to comply with any of its covenants and that this notice is sufficient for the Sub-recipient to rectify its actions or inactions of default.

The waiver by the CRDC of any default by the Sub-recipient does not constitute a waiver of a continuing breach or a waiver of a subsequent breach. Any agreement contrary to this Agreement is not binding upon either party unless it is in writing and signed by both parties.

O. CONSTRUCTION AND VENUE. This Agreement will be construed under and governed by the laws of the State of Montana. The CRDC and the Sub-recipient agree that performance of this Agreement is in the County of _____, State of Montana and that in the event of litigation concerning it, venue is in the District Court of the ____th Judicial District in and for the County of _____, Montana.

P. ELIGIBILITY. The Sub-recipient certifies that the Sub-recipient's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in State of Montana contracts.

This Sub-recipient Agreement has been approved by (name of certified regional development corporation)'s Board of Directors and (name of economic development organization)'s Board of Directors.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed.

(Name of certified regional development corporation)

(Name of Executive Director)

Date

Attest:

(Name of economic development organization)

(Name of Executive Director)

Date

Attest:

(ATTACH ANY EXHIBITS HERE)

For Example:

Exhibit "A" – BSTF Grant Contract between the Department of Commerce & the CRDC

Exhibit "B" – Management Plan for the Project (between the CRDC and the Sub-recipient, as approved by the Department of Commerce)

Exhibit "C" – Schedule of Fees

APPENDIX D: MANAGEMENT PLAN

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND PROGRAM CATEGORY II: PLANNING GRANTS

SAMPLE

(Project Managed by Third-Party Nonprofit)

In State Fiscal Year (SFY) (xxxx), (Name of Certified Regional Development Corporation), was certified by the Montana Department of Commerce (Department) as a Certified Regional Development Corporation (CRDC) and received a grant from the Big Sky Economic Development Trust Fund (BSTF) Program that will be granted to (Name of local economic development organization) (EDO). The CRDC will enter into a Sub-recipient Agreement with (Name of EDO) for administering the BSTF grant. This Management Plan is written to assure proper management of the BSTF grant, which includes financial management of grant funds, compliance with state and federal requirements, and the timely start-up and completion of project activities.

A. ADMINISTRATIVE STRUCTURE

1. (Name of CRDC), CRDC GRANTEE

The following persons will have lead responsibility for administering the BSTF Grant on behalf of the CRDC to (Describe Activity Funded). For the purposes of this agreement the (Name of Project) BSTF grant for the above-described activities will be referred to as the BSTF Project.

- a. (Name of CRDC Official), Executive Director, will have responsibility for all official contacts with the Department. The Executive Director and the CRDC's Board of Directors will have the ultimate authority and responsibility for the implementation of the BSTF Project. The Executive Director will approve and sign administrative documents and approve all payment requests from the BSTF program. The CRDC's Board of Directors will approve all contracts and payment requests. The telephone number for the Executive Director is (406) (xxx-xxxx).
- b. (Name), Attorney, will review any proposed contractual agreements associated with the BSTF grant, advise the CRDC's Board of Directors regarding the agreements, and provide any other legal guidance as requested. (Telephone: (406) (xxx-xxxx).)
- c. Name, Fiscal Officer, will be responsible for maintaining records related to the management of the BSTF grant funds for the CRDC. (Telephone: (406) (xxx-xxxx))
- d. (Name and title of CRDC Official), will be the liaison between the CRDC and EDO. (He/She) will make appropriate recommendations and route all contract documents, administrative documents, and payments as necessary. (Telephone: (406) (xxx-xxxx))

2. (Name of EDO), LOCAL ECONOMIC DEVELOPMENT ORGANIZATION (EDO)

To provide general technical assistance, coordination of funding sources, assurances of compliance with all applicable state requirements for the BSTF grant program, the EDO has designated (Name of EDO Official) as its Project Administrator. The EDO is a not-for-profit economic development organization located in the (name of local government). The following EDO personnel will be responsible for the project:

- a. (Name of EDO Official), Executive Director, will be responsible for all official contacts with the CRDC on behalf of the EDO, keeping the EDO's Board of Directors apprised of project status, and entering agreements on behalf of the EDO. (Telephone: (406) xxx-xxxx).
- b. (Name of EDO Official), Project Manager, will be responsible for overall coordination of the BSTF grant awarded to the CRDC. (He/She) will establish and maintain complete and accurate project files and monitor all project activities for compliance with all applicable requirements and will prepare payment requests. (Telephone: (406) (xxx-xxxx)).
- c. (Name of EDO Official), Fiscal Officer, will be responsible for the fiscal management of the BSTF project, in coordination with the Project Manager and in accordance with the EDO's established Fiscal Procedures. (He/She) will assure compliance with all applicable federal, state and local requirements, keep all fiscal records and accounts for the EDO, assure coordination of all funding sources, review all project expenditures, process pay requests, draft payment requests, and prepare all project closeout documents. (Telephone: (406) (xxx-xxxx)).

B. PROJECT MANAGEMENT

1. The (Name and title of CRDC Official), will:

- a. Develop a BSTF contract between the CRDC and the Department.
- b. Prepare payment requests including: *Request for Payment Form*, *Project Progress Report* and associated cost documentation (invoices, etc.) to submit to the Department.
- c. Review, approve, and submit the BSTF payment requests, after preparation by the EDO and approval by the CRDC's Board of Directors, to the BSTF Program, Business Resources Division, Montana Department of Commerce, and ensure disbursement of funds to the EDO.
- d. Review and approve all BSTF closeout documents.

2. As a sub-recipient, the EDO as the Project Administrator, is responsible for the following day to day project activities:

- a. Assisting the CRDC and the Department in developing the CRDC contract with the Department that will address all requirements related to effective BSTF project start-up and implementation. This will include preparation of all agreements between the EDO and the CRDC.

- b. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to administration of the grant.
- c. Reviewing all proposed project expenditures to ensure their propriety and proper allocation of expenditures to the project budget.
- d. In cooperation with the CRDC Project Manager, processing payment requests and preparing payment requests for the Department, including the *Request for Payment Form* and the *Project Progress Report* with each payment request and quarterly as specified by the Department.
- e. Preparing all required performance reports and closeout documents for submittal to the Department and assisting auditors with the completion of any project audit requirements.
- f. Closing the BSTF Project in a timely fashion in accordance with the submitted project timeline.
- g. Attending CRDC Board of Directors meetings to provide project progress reports and representing the BSTF Project at any other public meetings as deemed necessary by the CRDC's Board of Directors.

C. FINANCIAL MANAGEMENT

1. The (Name and title of CRDC Official), will be responsible for:
 - a. With the assistance of the Project Manager, preparing the *Request for Payment Form* to be submitted to the Department. All payment requests will be signed by a duly authorized representative of the CRDC.
 - b. Administrative payments will consist of reimbursement for actual time and costs incurred at a rate of _____ **per hour** plus documented expenses. (Or as detailed in Exhibit "(X)"). The EDO will prepare the BSTF payment request and attach a copy of an interim expenditure report. The expenditure report is generated from the EDO's automated accounting system and includes a detail for **actual monthly expenses**, project-to-date expenses, a budget for each line item expense, and the budget remaining for each line item. Upon review and approval, the CRDC will forward the request to the Department. The CRDC will reimburse the EDO upon receipt of funds from the Department.

If (Name of EDO) ceases to exist or an Event of Default occurs, BSTF Program funds relating to the BSTF grant will revert to the (Name of CRDC).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 20__.

PROJECT ADMINISTRATOR:

(Name, Title)
(Name of EDO)

Date

(Name of Certified Regional Development Corporation):

(Name, Title)
(Name of Certified Regional Development Corporation)

Date

SAMPLE COMPENSATION LANGUAGE

Presented below are various options the local government can use and/or modify for compensating the project manager or Sub-recipient for implementing and managing the initial BSTF loan(s).

Project Management

I. **Option 1 - ACTIVITY BASED COMPENSATION**

The Sub-recipient may submit payment requests quarterly to the CRDC. **Payment requests must be accompanied by a written narrative report that adequately describes and documents the work performed during the period of the contract relative to the project timeline.** Total payment for the services rendered under this Management Plan and associated Sub-recipient Agreement for project management will not exceed five (5) percent of the total BSTF grant award.

Compensation for project administration services, including project start-up activities, implementation, and on-going monitoring and reporting, will be provided in installments, based on actual work performed. Payment will be based upon the completion of key components, as follows:

<u>ACTIVITY</u>	<u>ESTIMATED DATE</u>	<u>TOTAL</u>
Complete Start-up	Month/Year	\$XX,XXX
Semiannual Monitoring & Reporting	Month/Year to Month/Year	\$XX,XXX
Completion & Approval of Project Closeout Report	Month/Year	\$XX,XXX
Local Government Administration/Audit	Month/Year	\$XX,XXX
GRAND TOTAL GRANT ADMIN.		\$XX,XXX

II. **Option 2 – HOURLY RATE COMPENSATION**

The Sub-recipient may submit payment requests quarterly to the CRDC. **Payment requests must be accompanied by a written narrative report that adequately describes and documents the work performed during the period of the contract to the project timeline. Payments will consist of reimbursement for actual time and costs incurred.** Total payment for the services rendered under this Management Plan and corresponding Sub-recipient Agreement for project management will not exceed five (5) percent of the total BSTF grant award.

An expenditure report will be generated from the EDO's automated accounting system and will include detail for **actual quarterly expenses**, project-to-date expenses, a budget for each line item expense, and the budget remaining for each line item, as follows:

Line Item	Budgeted	Current Reporting Period	Expenses to Date	Remaining Budget
Personnel Services	XX,XXX	0	0	\$XX,XXX
Office Supplies	X,XXX	0	0	\$X,XXX
Postage/Printing	XXX	0	0	\$ XXX
Telephone	X,XXX	0	0	\$X,XXX
Travel	X,XXX	0	0	\$X,XXX
Other	X,XXX	0	0	\$X,XXX
Total	\$XX,XXX	\$ 0	\$ 0	\$XX,XXX

Budget Narrative: Allows for the start-up activities, implementation, loan processing, and on-going monitoring and reporting.

Personnel Services: Staff costs for salary and benefits.

Office Supplies: Includes all project-related general office supply costs

Postage/Printing: Includes project-related copy and postage costs

Telephone: Includes project-related telephone costs

Travel: Includes project-related travel costs for staff

Other: Project-related legal, insurance, audit, accounting and training costs

APPENDIX E: REQUEST FOR PAYMENT FORM

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF)

SECTION I: APPLICANT INFORMATION					
CONTRACT # MT-BSTF- - -		DATE		TOTAL AMT REQUESTED	
NAME & ADDRESS OF GRANTEE		FINANCIAL INSTITUTION: ROUTING NUMBER: ACCOUNT NUMBER:			
SECTION II: FINANCIAL INFORMATION					
Budget Line Item	Approved Budget <small>*INDICATES AMENDMENTS</small>	Current Amount Requested	Drawn	Requested, not Received	Balance
1. Professional Services					
2. Personnel					
3. Legal					
4. Travel					
5. Supplies					
6. Telephone					
7. Printing / Postage					
8. Other (Please Specify)					
9. TOTAL GRANT BUDGET					
SECTION III: APPLICANT CERTIFICATION					
CERTIFICATION OF AUTHORIZED REPRESENTATIVE: I certify that the above information and any attachments thereto are complete and accurate to the best of my knowledge and belief. X					
SIGNATURE		NAME AND TITLE		DATE	
SECTION IV: DEPARTMENT OF COMMERCE CERTIFICATION					
Expenditures are reasonable and appropriate ____ Financial numbers & signatures are correct ____ Administration does not exceed allowable amount ____			Approved by: Title: Date:		

APPENDIX F: PROFESSIONAL SERVICES CONTRACT

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND PROGRAM CATEGORY II: PLANNING GRANTS

SAMPLE

This Contract is entered into this ____ day of _____, 20__, by and between the (name of certified regional development corporation), herein referred to as the "CRDC" and (name of Professional Services Contractor), (Contractor address), herein referred to as the "Contractor," Witnesseth:

WHEREAS, the Montana Department of Commerce, herein referred to as "the Department," has awarded the CRDC grant funds under the Big Sky Economic Development Trust Fund (BSTF) for purposes of (name activities); and

WHEREAS, the CRDC desires to engage the Contractor to render certain services related to the administration of the above described project; and

WHEREAS, the CRDC has complied with state and federal procurement requirements regarding the selection of contractors; and

WHEREAS, the CRDC desires to enter into an agreement with the Contractor as hereinafter provided to assure the effective management of the project;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. EMPLOYMENT OF CONTRACTOR. The CRDC agrees to engage the Contractor, and the Contractor agrees to provide the services as outlined in the Scope of Work attached as Exhibit ____.
2. INDEPENDENT CONTRACTOR. It is understood by the parties hereto that the Contractor is an independent contractor and that neither its principals nor its employees, if any, are employees of the CRDC for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to section 39-71-401, MCA, the Contractor has obtained, and will maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principals and employees for the services to be performed hereunder.
3. LIAISON. The CRDC's designated liaison with the Contractor is (name and title of CRDC's liaison). The Contractor's designated liaison with the CRDC is (name and title of Contractor's liaison).
4. EFFECTIVE DATE AND TIME OF PERFORMANCE. This Contract takes effect on (Date). The services to be performed by the Contractor will be completed no later than (Date).

5. SCOPE OF SERVICES. The Contractor will perform the services as outlined in the Scope of Work attached as Exhibit ____.

It is understood and agreed by the parties that the services of the Contractor do not include any of the following: the disbursement or accounting of funds distributed by the CRDC's financial officer, legal advice, fiscal audits or assistance with activities not related to the project.

6. COMPENSATION. For the satisfactory completion of the services to be provided under this Contract, the CRDC will pay the Contractor a sum not to exceed \$(dollar amount) as in the manner set forth in the attached Exhibit ____, which by this reference is made a part of this contract. Each specific service the Contractor will provide under this contract, and the maximum amount that the CRDC will pay the Contractor for each of these services, is set forth in the attached Exhibit _____. The Contractor may submit monthly requests for payment, based on actual work performed, which must be accompanied by an itemized invoice describing the services furnished, the number of hours worked to accomplish each item, the amount being billed for each item, a description of any other eligible expenses incurred during the billing period, and the total amount being billed.
7. CONFLICT OF INTEREST. The Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the BSTF project which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that, in performing this Contract, it will employ no person who has any such interest.
8. MODIFICATION AND ASSIGNABILITY OF CONTRACT. This Contract contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in the written Contract, are valid or binding. This Contract may not be enlarged, modified or altered except upon written agreement signed by both parties hereto. The Contractor may not subcontract or assign its rights, including the right to compensation, or duties arising hereunder without the prior written consent of the CRDC. Any subcontractor or assignee will be bound by all of the terms and conditions of this contract.
9. CONDITIONAL AGREEMENT. It is expressly understood by the parties hereto that this Contract is dependent and conditioned upon the receipt of the funds from the Department and that in the event that said funds are not provided, the CRDC incurs no responsibilities or liabilities under this Contract.
10. TERMINATION OF CONTRACT. This Contract may be terminated as follows:
- (a) Termination due to loss of funding. This Contract will terminate, in whole or in part, at the discretion of the CRDC in the event that the Department reduces or terminates payments under the BSTF Program so as to prevent the CRDC from paying the Contractor with grant funds. In this event, the CRDC will give the Contractor advance written notice which sets forth the effective date of the termination and explains that the termination is due to a loss or reduction of the grant.

- (b) Termination for cause.

(i) If, at any time before the date of completion, one of the parties determines that the other party has failed to comply with any of the terms and conditions of this Contract, the aggrieved party may give notice, in writing, to the defaulting party of any deficiencies claimed. The notice will be sufficient for all purposes if it describes the default in general terms. If the defaulting party fails to cure and correct all defaults claimed within a reasonable period to be specified in the notice, the aggrieved may, with no further notice, declare this Contract to be terminated in whole or in part.

(ii) If the Contractor is the defaulting party, it will thereafter be entitled to receive payment for those services satisfactorily performed to the date of termination less the amount of reasonable damages suffered by the CRDC by reason of the Contractor's failure to comply with the contract's terms and conditions.

(iii) If the CRDC is the defaulting party it will pay the Contractor for those services satisfactorily performed to the date of termination plus the amount of reasonable damages suffered by the Contractor by reason of the CRDC's failure to comply with the contract's terms and conditions.

(iv) Notwithstanding the above, the defaulting party is not relieved of liability to the aggrieved party for damages sustained by the aggrieved party by virtue of any breach of this contract.

(v) If the Contractor is the defaulting party, the CRDC may withhold any payments to the Contractor for purposes of setoff until the exact amount of damages due the CRDC from the Contractor is determined.

11. DOCUMENTS INCORPORATED BY REFERENCE. The CRDC's application to the Department for funding, dated (date), and all applicable federal and state statutes and regulations are incorporated into this Contract by this reference and are binding upon the Contractor.
12. EQUAL EMPLOYMENT OPPORTUNITY. Any hiring of employees by the Contractor under this Contract will be on the basis of merit and qualification, and the Contractor will not discriminate against any person on the basis of race, color, religion, creed, sex, national origin, age, disability, marital status, or political belief. As used herein, "qualifications" means qualifications that are generally related to competent performance of the particular occupational task.
13. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data, and other materials prepared by the Contractor pursuant to this Contract are the property of the CRDC and the Department which have the nonexclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any reuse without written verification or adaptation by the Contractor for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Contractor. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the CRDC and the Department.

14. REPORTS AND INFORMATION. The Contractor will maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by the CRDC to assure proper accounting for all project funds.
15. ACCESS TO RECORDS. It is expressly understood that the Contractor's records relating to this Contract will be available during normal business hours for inspection by the CRDC, the Department and, when required by law, the Montana Legislative Auditor and Legislative Fiscal Analyst.
16. PLACE OF PERFORMANCE, CONSTRUCTION, AND VENUE. The parties understand and agree that performance of this contract is within the Certified Regional Development Corporation region and that in the event of litigation concerning it, venue is in the ____th Judicial District in and for the County of _____, State of Montana.

This Contract will be construed under and governed by the laws of the State of Montana.

17. INDEMNIFICATION. The Contractor waives any and all claims and recourse against the CRDC, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incidental to the Contractor's performance of this contract except for liability arising out of concurrent or sole negligence of the CRDC or its officers, agents or employees. Further, the Contractor will indemnify, hold harmless, and defend the CRDC against any and all claims, demands, damages, costs, expenses or liability arising out of the Contractor's performance of this Contract except for liability arising out of the concurrent or sole negligence of the CRDC or its officers, agents or employees.
18. LEGAL FEES. In the event either party incurs legal expenses to enforce the terms and conditions of this Contract, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses, whether the same are incurred with or without suit.
19. ELIGIBILITY. The Contractor certifies that the Contractor's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in State of Montana assisted contracts.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on

the _____ day of _____, 20__.

CONTRACTOR

(CERTIFIED REGIONAL DEVELOPMENT
CORPORATION NAME)

BY: _____
Contractor

BY: _____
Official Representative of the (name of
CRDC)

DATE: _____

DATE: _____

(ATTACH ANY EXHIBITS HERE)

For Example:

Exhibit A: Scope of Services

(Provide exhibit and list details of scope of services)

Exhibit B: Payment Schedule

(Provide exhibit listing details of payment schedule)

APPENDIX G: PRELIMINARY ARCHITECTURAL REPORT OUTLINE

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND

FOR NEW CONSTRUCTION OR REHABILITATION OF EXISTING BUILDINGS

The outline presented on the following pages describes the common items necessary to produce the PAR. The PAR must be prepared by a professional architect licensed to practice in the State of Montana.

The PAR should adequately describe the existing situation and problem, analyze alternatives and propose a specific course of action for solving the problem. Sufficient information must be provided to adequately assess the need for, feasibility, and cost of the project.

The outline is by no means all-inclusive. The architect should use his or her professional judgment to present sufficient information during preparation of the PAR, taking into account that different projects require varying levels of detail (rehabilitation of an existing building versus construction of a new building).

The level of effort required to prepare the report and the depth of analysis within the report should be proportional to the size and complexity of the proposed project. The architect should provide appropriate documentation wherever possible to support the analysis and the proposal.

If the PAR does not provide required information, a clear analysis of existing conditions, as well as a thorough proposal to address the deficiencies, further applications for project funding may receive fewer points in the competitive ranking and as a result, possibly not receive funding from state and/or federal funding sources.

Environmental Considerations

All state and federally funded projects are subject to either the Montana Environmental Policy Act (MEPA) or National Environmental Policy Act of 1969 (NEPA), or both. MEPA seeks to avoid or mitigate adverse impacts on the natural and human environment by mandating careful consideration of the potential impacts of any development assisted with state funds or approved by a state agency. NEPA establishes national policy, goals, and procedures for protecting, restoring, and enhancing environmental quality.

Both laws seek to avoid adverse impacts on the environment by mandating careful consideration of the potential impacts of any development assisted with federal funds or approved by state agency. In order to avoid delays, adding significantly to project costs, or even preventing a project from being carried out, all applicants to state or federal infrastructure funding programs must consider potential environmental impacts during the project planning. As a result, local officials will be able to make better decisions by carefully considering the potential environmental consequences of projects and the actions that will be required to mitigate any adverse consequences.

Various funding agencies have different requirements related to the environmental review process, the selection of the preferred alternative, and adoption of the preliminary architectural report. Requirements for public review and notification also vary by funding agency. Applicants should contact those agencies that they are considering applying to so that each agency's specific requirements will be met.

Even though public participation in the preparation of the PAR may not be specifically required by a particular funding program, if the final project is for public use, it is recommended that the public be involved in the selection of the preferred architectural alternative.

Preliminary Architectural Report Outline

I. Problem Definition

A. Identify the planning area and existing or potential location of the facility. Using narrative and drawings, describe the area(s) under consideration. The description should include the following information:

1. **Location** - Indicate legal and natural boundaries, major obstacles, etc. using maps, photographs, and sketches of the planning area or alternative sites, as applicable.
2. **Environmental Resources Present** - Provide information on the location and significance of important land resources (farmland, range land, forestland, wetlands, and 100 year floodplains, including stream crossings), historic sites, endangered species or critical habitats, etc., using maps, photographs, studies and narrative, as applicable.
3. **Growth Areas and Projected Population Trends** - Identify specific areas of concentrated growth. Provide population projections for the project planning area and concentrated growth areas for the project design period. Base population projections on historical records, or economic projections, citing recognized sources.

B. Evaluate the condition of existing facilities. Describe the existing facilities including at least the following information:

1. **Layout of The Existing Facility** - Provide a floor plan for the existing structure(s). Illustrate current space occupied and proposed space requirements.
2. **History** - Provide a brief history of the facilities, including when the system was constructed, major improvements and any past problems.
3. **Condition of Facilities** - Describe present condition, capacity, and if there are existing facilities suitable for continued use.

4. **Evaluate Presence of Lead-based Paint and Asbestos** - Provide a full evaluation of the presence of lead-based paint and asbestos when existing facilities are being considered
5. **Financial Status of Facilities** - Provide information regarding annual operation and maintenance (O&M) costs, tabulation of users, and revenue received for the last three fiscal years. Give status of existing debts associated with the facility.

C. Describe and document the need for the project and the problems to be solved.
Describe the need for the project according to the following criteria:

1. **Health and Safety** - Describe concerns, compliance issues, and relevant regulations such as the Uniform Building Code, zoning ordinances, asbestos, lead-based paint, and other federal, state, local, or tribal requirements. Attach pertinent correspondence to/from appropriate federal and state regulatory agencies.
2. **Facility O&M** - Describe O&M concerns with an emphasis on those with the greatest financial and operational impact. Discuss operational, administrative and management capacity.
3. **Growth** - Describe the facility capacity necessary to meet projected needs during the planning period. Discuss any potential for future expansion, if applicable, or any consideration given to designing for phased construction. Provide number of current and projected new users to be served by this project.

II. Alternative Analysis

A. Description. *Describe each alternative site, i.e. existing buildings with potential for rehabilitation or alteration, or alternative building sites.*

1. **Existing Buildings** - Describe existing buildings within the community that could be modified to accommodate the proposed facility, deficiencies with each, code compliance issues, floor space, handicapped accessibility, potential for expansion, as applicable.
2. **Building Sites** - If proposing new construction, describe alternative building sites available for new construction, any existing structures on the site(s), potential for expansion, proximity to other services, etc.

B. Regulatory Compliance and Permits. *Describe compliance with appropriate regulations such as Uniform Building Code, zoning issues, asbestos, lead-based paint, permits, handicapped accessibility, and other federal state, local or tribal requirements.*

C. Land Acquisition. *Identify sites and easements required, if applicable. Specify whether these properties are currently owned, to be acquired or leased, and whether options have been obtained, contingent upon receipt of funding.*

D. *Environmental Considerations.* *For the alternative selected for the project, discuss the following:*

1. **Affected Environmental Consequences** - Describe and document the environmental resources of the area to be affected. The information collected through the Uniform Environmental Checklist is the basis for discussing environmental resources in the area that might be affected or that might affect the proposed facility. The checklist must be attached as part of this report. If there has been a previous environmental assessment completed for the project area, please include a copy of the assessment in addition to the completed checklist. Identify each environmental resource that will be affected, as applicable.
2. **Mitigation** - Evaluate appropriate short and long-term measures to mitigate each potentially adverse impact. Describe the mitigation measure(s) necessary to minimize adverse impacts upon identified environmental resources. Projects contemplating the renovation of existing structures should thoroughly discuss mitigation measures to address asbestos and lead-based paint, where identified, in accordance with federal and state requirements.
3. **Correspondence** - Include any environmentally related correspondence and agency comments as required by the Environmental Checklist, e.g., the State Historic Preservation Office (SHPO).
4. **Exhibits/Maps** - Include any exhibits, maps, or drawings as applicable to describe potential environmental impacts.

E. *Construction Problems.* *Discuss unique concerns such as geological constraints, limited access, underground storage tanks, high water table, asbestos, lead-based paint, contaminated soil, noise, odors, or other conditions that may affect cost of construction or operation of the facility.*

F. *Cost Estimates.* *Include both:*

1. **Project Costs** (i.e., administrative, financial, engineering, architecture, and construction costs.)
2. **Projected Annual Operation and Maintenance (O&M) Costs**

III. *Selection of Preferred Alternative*

- A. *Basis of the selection of the preferred alternative.*** Provide an analysis of why the preferred alternative was selected over other alternatives.
- B. *Site location and characteristics.*** Discuss the site location of any current or proposed facilities, and describe the characteristics of the site(s).
- C. *Preliminary Architectural Plans.*** Provide preliminary architectural plans (including a proposed floor plan) for the proposed facility.

D. Operational requirements. Discuss the expertise required to operate the facility and any unique operational requirements of the facility.

E. Impact on existing facilities.

F. Design. Describe design issues for this project, such as the location of the facility, cost effectiveness, technical feasibility, local resources and suppliers, etc.

G. Cost summary.

1. **Project Cost Estimate** - Provide an itemized estimate of the project cost based on the anticipated period of construction. Include administrative, development and construction, land and rights, legal, engineering, interest, equipment, contingencies, refinancing, and other costs associated with the proposed project.

2. **Annual Operating Budget** -

a. **Income** - Project income realistically. Base projections on likely revenues, membership dues, subsidies, etc.

b. **O&M Costs** - Project costs realistically. In the absence of other reliable data, base projections on actual costs of other existing facilities of similar size and complexity. Include facts to substantiate O&M costs estimates. Include salaries, wages, taxes, accounting, auditing fees, legal fees, interest, utilities, insurance, fuel, repairs and maintenance, supplies, chemicals, office supplies, printing, medical supplies and/or equipment, and miscellaneous expenses.

c. **Capital Improvements** - Describe annual costs of purchasing or replacing equipment necessary to the function of the facility.

d. **Debt Repayments** - Describe existing and proposed project financing from all sources, and any effect on facility user fees, including any debt coverage requirements.

H. Public Participation. Describe any public participation, meetings, hearings, or comments received from the public about the PAR or proposed project (you may refer to the appropriate CDBG ranking criteria where this has been addressed).

IV. Conclusions and Recommendations.

Provide any additional findings and recommendations that should be considered in the evaluation of this project.